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1 UNITED STATES DISTRICT COURT  
2 SOUTHERN DISTRICT OF NEW YORK

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3 ULKU ROWE,

4 Plaintiff,

5 v.

19 Civ. 8655 (JHR)

6 GOOGLE LLC,

7 Defendant.

Trial

8 -----x

New York, N.Y.  
October 13, 2023  
9:30 a.m.

10 Before:

11 HON. JENNIFER H. REARDEN,

12 District Judge  
13 -and a jury-

14 APPEARANCES

15 OUTTEN & GOLDEN, LLP  
Attorneys for Plaintiff

16 BY: CARA E. GREENE  
GREGORY S. CHIARELLO  
17 SHIRA Z. GELFAND

18 PAUL HASTINGS LLP  
Attorneys for Defendant

19 BY: KENNETH W. GAGE  
SARA B. TOMEZSKO

20 Also Present: Vincent Yang, Paralegal (Outten & Golden)  
21 Andrew Velazquez, Google Rep.  
22 Jean Gutierrez, Paralegal (Paul Hastings)

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(Trial resumed; jury not present)

THE COURT: I have a couple of housekeeping items I wanted to raise before I give you a ruling on the Bennett issue.

So, first, earlier this week you handed up three stipulations. Two of them related to instructions to the jury which I delivered to the jury. The third is a stipulation of fact, which is the upshot of the motion practice over Thomas Kurian. So we need to know how you'd like to mark that, first of all. And also, if you want me to read it to the jury, you just need to let me know when. That doesn't have to be dealt with immediately. I didn't want to lose sight of it.

Second, I wanted to just quickly go over with you the limiting instruction that I will be giving when Ms. Tomezsko resumes her examination of Mr. Vardaman.

So how would you like me to refer to these packets? We have two of them, 70 and 71, and one relates to Diana Layfield and one is Ranjana Clark.

MS. TOMEZSKO: Your Honor, we've conferred between us counsel, and the limiting instruction would also cover any other document that I introduced to Stuart Vardaman today during the rest of his examination. So would it be sufficient to say it covers — maybe we could just say the documents other candidates for the various positions that Ms. Rowe competed for or sought, or something like that.

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1 THE COURT: It's all candidates for the financial  
2 services vertical lead position, right?

3 MS. TOMEZSKO: And the financial services sales  
4 position, the second one as well.

5 THE COURT: And/or, I would say, I guess, right, or  
6 are they all candidates for both? No.

7 MS. TOMEZSKO: No, no.

8 THE COURT: And/or the financial services — sorry,  
9 what was that second one?

10 MS. TOMEZSKO: The — how did we refer to it? The  
11 vice president financial services sales position.

12 THE COURT: Oh, yes. OK.

13 How many exhibits do you have?

14 MS. TOMEZSKO: I think it's — that would cover the  
15 limiting instruction? I think it's five.

16 THE COURT: I'll just say several.

17 OK. You're about to see several exhibits defendant —  
18 I guess it's better to put the numbers in there for clarity.  
19 Do you know, 70, 71 —

20 MS. TOMEZSKO: D70.

21 THE COURT: D70, OK.

22 MS. TOMEZSKO: D71.

23 THE COURT: Yes.

24 MS. TOMEZSKO: D79, D77, D78, and D74.

25 THE COURT: 70, 71, 74, 77, 78, 79.

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1 MS. GREENE: I apologize, but with respect to those  
2 documents, I do — they are outside the motions in limine, and  
3 so I do have a question.

4 MS. GREENE: Your Honor, as to those documents, 77,  
5 74, 77, 76, 78 —

6 THE COURT: I don't think she said 76, but —

7 MS. TOMEZSKO: I'll just repeat the numbers so we're  
8 all on the same page. It's D70, D71, D74, D77, D78, and D79.

9 THE COURT: So 74, 77, 78, Ms. Greene, is that your —  
10 (Counsel confer)

11 MS. GREENE: So as to the documents that are 74 and  
12 above, with the exception of 79, so 74 through 78, those  
13 objections — or those documents, and we have an objection on  
14 the basis of hearsay and relevance. The relevance objection  
15 was one that was part of motions *in limine* and Judge Schofield  
16 ruled against us on that, but we would like to maintain that  
17 relevance objection.

18 Apart from that, there's a hearsay objection with  
19 respect to these documents. I believe they're being offered  
20 for the truth of the matter asserted with respect to these  
21 different candidates, and so that's our objection on the basis  
22 of hearsay.

23 THE COURT: Why isn't that covered by the same  
24 limiting instruction? The point of the limiting instructions  
25 is that they're not being considered for the truth.

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1 MS. GREENE: Because, your Honor, unlike some of the  
2 other documents, it's not — this is not effect on listener  
3 because it's a record of the process itself as opposed to  
4 feedback materials, which is for impact or effect on listener.  
5 So these are not materials that are, you know, offered for  
6 effect on listener. They're records of conversations and  
7 discussions that were had in the process itself. So it's  
8 straight-up hearsay being offered for the fact that these were  
9 the conversations that took place around this process.

10 THE COURT: Let me ask a couple questions.

11 So 74, 77, and 78, are they all the same nature such  
12 that if I look at 74, I can assume that I'm —

13 MS. TOMEZSKO: Yes, your Honor.

14 MS. GREENE: 74, 77, 78 are all of the same nature.  
15 Mr. Yang, if you're able to pull up D74.

16 THE COURT: So looking at 74, this is an internal  
17 Google person recording questions, thoughts, and looks like  
18 asking questions of other individuals at Google, how did your  
19 conversation go with her, that sort of thing.

20 MS. TOMEZSKO: Your Honor — sorry.

21 MS. GREENE: This is Mr. Vardaman's status report with  
22 Kirsten Kliphouse with respect to the financial services sales  
23 position. That's the 2020 position.

24 THE COURT: So this records — these notes are his  
25 preparation for that meeting with Kliphouse, or is it recording

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1 her statements?

2 MS. TOMEZSKO: No, it's the fact that he had the  
3 meeting with Kirsten Kliphouse. I don't think it's any  
4 different than P69, your Honor, the long document we've been  
5 looking at that records he had status updates with Tariq  
6 Shaukat about the candidates and the process for the financial  
7 services vertical lead position.

8 THE COURT: How is it different from 69, Ms. Greene?

9 MS. GREENE: We're offering it against a party  
10 opponent, and so it's outside of hearsay.

11 THE COURT: You offered it?

12 MS. GREENE: We offered it, yes.

13 THE COURT: I understand.

14 So, Ms. Tomezsko, does this record what Ms. Kliphouse  
15 conveyed to Mr. Vardaman?

16 MS. TOMEZSKO: I don't believe so. I believe that  
17 what it records is the fact that on this date the agenda  
18 reflects what was discussed. The notes and the status, they —  
19 I mean, we could ask Mr. Vardaman about what that reflects, but  
20 my understanding is those are his notes from the meeting.

21 THE COURT: Ms. Greene, what about putting it up only  
22 for Mr. Vardaman and asking him, does this reflect  
23 Ms. Kliphouse's comments to you or does it capture your  
24 preparation for a meeting with Ms. Kliphouse? Can we do that?

25 MS. GREENE: Your Honor, if it's his notes in

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1 preparation, it's still hearsay.

2 THE COURT: Why? You don't consider this a business  
3 record?

4 MS. GREENE: I don't consider this — I don't think  
5 it's been asserted as a business record, and this is not a  
6 record of something that has happened. These are notes about  
7 things that he might discuss with her, questions he has for  
8 her, and so the indicia of reliability that exists with some of  
9 those other records are different. I think that there could be  
10 a limiting instruction that allows this to come in, but it  
11 would be a different limiting instruction than the ones that  
12 relate to feedback.

13 THE COURT: OK.

14 MS. GREENE: I'd have to think through what that  
15 limiting instruction is.

16 THE COURT: Sounds like we're getting to the right  
17 place, but let me ask something else about business records.

18 Is this part of — this almost looks like a form to  
19 me. Is this part of Google's regular process in connection  
20 with considering candidates?

21 MS. TOMEZSKO: I think there are one or two questions  
22 I could ask Mr. Vardaman to establish that, why he created  
23 this, for what purpose, is it part of his standard practice?  
24 He's going to be here today. He could testify as to the  
25 purpose of this document. Ms. Kliphouse will show up at trial.

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1 She could testify as to whether she saw this document, what she  
2 understood it to be. I think all of that will provide the  
3 adequate context for what is in this document.

4 THE COURT: I think what I'm hearing is there's a  
5 concern about two levels of hearsay. So you have to ask him  
6 not only the questions designed to get at whether this is a  
7 business record, but you also have to ask him whether, in the  
8 notes and status column, he's capturing his own thoughts and  
9 preparation for a meeting, or is he recording communications  
10 from the person with whom he was speaking?

11 MS. GREENE: Your Honor, there's a second piece of  
12 this, and I'm just looking through Mr. Vardaman's — I believe  
13 I asked him about whether these sorts of documents existed at  
14 the time of his deposition. I'm looking back through. These  
15 documents were not produced — if I'm correct, Ms. Gelfand —  
16 until November 22, 2022, so more than two years after I had  
17 deposed Mr. Vardaman.

18 THE COURT: OK.

19 MS. GREENE: So I'm looking for his testimony where I  
20 believe I asked him about whether there was this sort of  
21 document that existed.

22 MS. TOMEZSKO: I believe that issue was dealt with in  
23 the motion *in limine* practice. Plaintiff had raised the  
24 concern that she was prejudiced by the timing of the production  
25 of these documents, and Judge Schofield determined that, no,



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1 that was not the case.

2 MS. GREENE: But with respect to the indicia of  
3 reliability, if he said it didn't exist and then two and a half  
4 years later, two —

5 THE COURT: What exactly did he say?

6 MS. GREENE: I'm sorry. I just need one moment to  
7 find his testimony.

8 MS. TOMEZSKO: While Ms. Greene is looking, if I might  
9 make a suggestion. We could publish it just to the witness  
10 without showing the jury, lay a proper foundation for what this  
11 is and what it reflects, whether it's his preparation, whether  
12 it's capturing notes contemporaneous with the meeting, and we  
13 could move for its admission after that. If we haven't  
14 satisfied that with the answers that he gives, then we could  
15 show it to Kirsten Kliphouse when she shows up too.

16 THE COURT: So then does that mean, since these  
17 documents represent three of the six, you'd be showing  
18 Mr. Vardaman?

19 MS. TOMEZSKO: Correct.

20 THE COURT: So it would be — you'd be wrapping up  
21 more quickly with him?

22 MS. GREENE: I found his testimony, your Honor.

23 THE COURT: OK.

24 MS. GREENE: I'm on page 150, line 24:

25 "Q. Is there any documentation you made with respect to

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1 Ms. Rowe asking to be considered for the role in Kirsten's  
2 organization?

3 "A. I don't know.

4 "Q. Did you make any notes in gHire with respect to that?

5 "A. I — I don't know. That would have hinged — I — I don't  
6 know.

7 "Q. Did you make any notes in Thrive with respect to that?

8 "A. Not that I recall.

9 "Q. Do you create updates for Kirsten similar to the — to the  
10 updates you made for Mr. Shaukat?

11 "A. Each executive has a different way they like to go about  
12 things. As I recall, in supporting Kirsten it was much more ad  
13 hoc, kind of a key indicator of the pace at which we're having  
14 market activity as a recruiting team and, like, at the drop of  
15 a hat being expected to jump on a — on a call with a senior  
16 executive like Kirsten to provide a little bit of a status  
17 update. But it's much more ad hoc, I would say.

18 "Q. Do you recall anything in writing regarding Ms. Rowe that  
19 you communicated to Kirsten?

20  
21 "A. I don't recall."

22 THE COURT: OK.

23 MS. GREENE: And that was on, just to be clear,  
24 November 17, 2022, two years before the documents were  
25 produced.

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1 MS. TOMEZSKO: I don't recall —

2 MS. GREENE: I'm sorry, November 17, 2020.

3 THE COURT: I understand, but I think he was focused  
4 on something narrower there than I have in front of me now. So  
5 the questions were about documentation relating to Ms. Rowe.  
6 This is a document that goes through like a dozen or more  
7 candidates. I'm not convinced that he would have been thinking  
8 about a document like this in response to that question.

9 MS. GREENE: This is the question: "Do you create  
10 updates for Kirsten similar to the — to the updates you made  
11 for Mr. Shaukat?" That's P69, and that was the one that  
12 defense counsel noted this document's like P69. So we looked  
13 at P69 in his deposition, and I asked him: "Do you create  
14 updates for Kirsten similar to the — to the updates you made  
15 for Mr. Shaukat?" He said: "Each executive has a different  
16 way. As I recall, in supporting Kirsten" — and this is just  
17 months after he had this process.

18 THE COURT: I know, but —

19 MS. GREENE: He said it was much more ad hoc, kind of  
20 a key indicator at the pace. It was about a drop of a hat  
21 being expected to jump on a call, to provide a little bit more  
22 of a status update.

23 So if they're saying this is a business record that  
24 was maintained like the others, it's not. He testified that  
25 it's ad hoc; he would jump on a call. So it's not — it's not

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1 the same sort of document by his testimony, and it's a document  
2 that was produced two years later, which goes to the question  
3 of its reliability when he testified at the time these events  
4 were happening, or shortly thereafter, that this didn't exist.

5 THE COURT: I have to say I'm amazed that you pulled  
6 out that deposition testimony from however many years ago in  
7 this moment, but I see a distinction between 69 and 74. I think  
8 he just said, from what you read to me, that 69 was an update  
9 prepared for Mr. Shaukat, is that correct? Whereas this looks  
10 like something — something prepared for his own purposes. And  
11 at least without hearing his answers to a couple questions, I'm  
12 not convinced that it's not that.

13 So I would like to go ahead with the questions, but I  
14 will say, Ms. Tomezsko, if he does not give us the answers that  
15 we need in order to view this document as qualifying as a  
16 business record and also getting at the second potential layer  
17 of hearsay here, meaning that if he does not tell us that this  
18 reflects his own thoughts in preparation for a meeting and does  
19 not in any way capture her input during a meeting, unless we  
20 get both of those things, I'm sustaining the objection.

21 MS. TOMEZSKO: On hearsay grounds, your Honor, just so  
22 I understand?

23 THE COURT: Yes.

24 MS. GREENE: I — withdrawn.

25 THE COURT: All right. I don't know where that leaves

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1 me with my limiting instruction, but —

2 MS. TOMEZSKO: I think still the limiting instruction  
3 applies to the other documents.

4 THE COURT: So we're going to take 74, 77, and 78 out  
5 of the limiting instruction.

6 So we're back to Ms. Layfield and Ms. Clark's  
7 interview feedback in gHire. Is that what we're calling — you  
8 all agreed on this limiting instruction, so how do you want me  
9 to refer to these documents?

10 MR. GAGE: I'm just trying to look at what you're  
11 showing.

12 THE COURT: Oh, it's 70 and 71.

13 MR. GAGE: Records from gHire.

14 THE COURT: OK.

15 MS. GREENE: Yes.

16 THE COURT: That's what 79 is also.

17 MS. GREENE: Yes.

18 MS. TOMEZSKO: 79 is a hiring packet.

19 MR. GAGE: 79 is a hiring packet.

20 THE COURT: Why don't I say "hiring-related  
21 materials," OK?

22 MR. GAGE: That works for us.

23 THE COURT: "All of this is admitted for its effect on  
24 Stuart Vardaman upon reviewing the materials."

25 MR. GAGE: How about "effect on anyone who reviewed

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1 it"? And then the jury can decide, based on the testimony, who  
2 reviewed it.

3 THE COURT: OK. So we don't have to do this again.

4 MR. GAGE: That's my idea.

5 THE COURT: I figured. OK. I'm going to read this  
6 now:

7 You are about to see several exhibits, Defendant's  
8 Exhibits 70, 71, and 79, all of which consist of hiring-related  
9 materials. This evidence is admitted for a limited purpose.  
10 It is admitted only for its effect on anyone who reviewed these  
11 materials. You may not consider evidence of these hiring —  
12 you may not consider these hiring-related materials for their  
13 truth; meaning, you may not consider them as evidence of the  
14 substance of any applicant's qualifications for the financial  
15 services vertical lead position and/or the VP financial  
16 services sales position. You may give this evidence such  
17 weight as you feel it deserves, but only for the limited  
18 purpose for which it has been offered.

19 Yes.

20 MS. TOMEZSKO: I would just say, rather than "evidence  
21 of the substance of any applicant's qualifications" perhaps  
22 "evidence of the truth of those applicant's qualifications." I  
23 think that's — or "evidence that they actually had those  
24 qualifications."

25 THE COURT: All right. I thank both parties for their

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1 very thoughtful and fulsome submissions which were instructive  
2 and necessary in reaching the decision that I will now  
3 announce.

4 Having carefully considered the parties' submission,  
5 as well as the significant issues and authorities implicated by  
6 this matter, I am granting defendant's application to preclude  
7 evidence with respect to the leveling and treatment of Jennifer  
8 Bennett.

9 At bottom, Rule 403 compels this conclusion. Any  
10 probative evidence of Ms. Bennett's alleged discriminatory  
11 treatment is substantially outweighed by the overwhelming  
12 prejudice and juror confusion that would result from allowing  
13 that evidence in. And I cite here, of course, to the  
14 foundational evidentiary standard set forth in 403 that  
15 evidence may be excluded if its probative value is  
16 substantially outweighed by a danger of unfair prejudice,  
17 confusing the issues, and misleading the jury, among other  
18 factors.

19 To begin, both parties' submissions drive into sharp  
20 relief the sheer scale and scope of the evidence involving  
21 Ms. Bennett and the tremendous impact it would have on this  
22 trial. Specifically, to allow in the evidence of Ms. Bennett  
23 would affect, by plaintiff's own count, the testimony of eight  
24 trial witnesses, none of whom was deposed on this subject, as  
25 well as the admissibility of ten trial exhibits. That is to

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1 say, Bennett-related evidence would, if allowed in, effectively  
2 pervade this trial. It is against that backdrop that I make  
3 this ruling.

4 The parties have been litigating this case for four  
5 years. During that time, there was extensive discovery, motion  
6 practice, and joint discussions and submissions between the  
7 parties regarding the shape and scope of trial, and yet for an  
8 issue that has since been presented as constituting a  
9 significant part of plaintiff's strategy at trial, the issues  
10 surrounding Ms. Bennett were not meaningfully raised and  
11 identified for defendant and, in fact, were not truly  
12 crystallized until trial had already started.

13 Indeed, nearly three years ago plaintiff deposed  
14 recruiter Jennifer Burdis, an individual who had referenced  
15 Ms. Bennett's level in response to questions from employee  
16 relations two years prior. According to defendant, Ms. Burdis  
17 did not allege during that deposition that Ms. Bennett's level  
18 was probative of discriminatory animus.

19 Furthermore, plaintiff did not make that argument  
20 during summary judgment motion practice, which was completed  
21 well over a year ago in early 2022. Since then the parties  
22 have filed four joint pretrial orders, throughout which time  
23 plaintiff did not include Ms. Bennett's hiring packet on her  
24 list of trial exhibits despite having had nearly a year to do  
25 so since the filing of the first joint pretrial order on



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1 December 12, 2022, and at the same time, it bears noting,  
2 adding at least four other exhibits over that time period.

3 As a result of these circumstances, defendant was  
4 unable to subject Ms. Bennett herself, as well as other  
5 potential trial witnesses, to adversarial testing on the issues  
6 surrounding Ms. Bennett, nor to make targeted discovery  
7 requests that it may have otherwise made. Nor did defendant  
8 have an opportunity to address and brief these issues at  
9 summary judgment or at any other stage before trial.

10 I find plaintiff's arguments to the contrary, such as  
11 its reliance on a fleeting unclear reference to "Jen"  
12 unavailing. To spring an evidently key part of  
13 plaintiff's case on defendant in the thick of trial would be  
14 unduly prejudicial. For this reason, courts will not  
15 countenance the eleventh-hour assertion of new key arguments  
16 and facts at trial. I cite here as an example,  
17 *Busher v. Barry*, 2019 WL 6895281 (S.D.N.Y. Dec. 18, 2019), in  
18 which the Court cited other cases for the proposition that  
19 courts will not endorse "a party without explanation for the  
20 delay springing new facts and legal theories on the eve of  
21 trial."

22 I cite also to *Balogun v. Board of Regents of the*  
23 *University of Wisconsin System* in which the Court determined  
24 that plaintiff's "undeveloped argument is too little too late.  
25 Plaintiff could and have had developed its newly raised

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1 argument in opposition to defendant's motion" but did not and  
2 therefore could not present it at trial. 2019 WL 3387769, at  
3 \*3, n. 3 (W.D. Wis. July 26, 2019). By way of further example,  
4 I point to an oral ruling issued by another court in this  
5 district which would not allow a certain piece of evidence to  
6 be presented at trial that had been raised by plaintiff late in  
7 the case without first giving defendant an opportunity to "try  
8 to poke holes in that evidence." See April 26, 2013,  
9 transcript in 10 Civ. 3229. This is a critical opportunity  
10 that defendant did not have in this case.

11 Furthermore, to allow the introduction of this  
12 evidence at this stage would create a so-called trial within a  
13 trial with unwelcome consequences. In effect, defendant would  
14 be forced not only to present its case with respect to  
15 plaintiff but also would in connection with the examination of  
16 eight trial witnesses be forced to defend its decisions at  
17 every turn with respect to Ms. Bennett. That would, for one  
18 thing, substantially delay trial, requiring witness after  
19 witness not only to testify and address a multitude of exhibits  
20 regarding plaintiff herself but also about Ms. Bennett.

21 Moreover, and critically, this would run a real risk  
22 of creating juror confusion amid the mid-trial introduction of  
23 an entirely new employee's circumstances without defendant  
24 having had any meaningful opportunity to frame and address  
25 these issues in its opening statement and in earlier stages of

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1 testimony, see, for example, *Martin v. Reno*, 2000 WL 1863765,  
2 at \*4 (S.D.N.Y. Dec. 19, 2000,) in which the Court declined  
3 plaintiff's request to "call one or more witnesses to testify  
4 about alleged incidents of discrimination by the company that  
5 did not involve plaintiff himself," finding in part that "such  
6 testimony would merely protract the trial by taking the  
7 testimony too far afield from plaintiff's actual claims." As a  
8 result, the court concluded plaintiff is precluded from  
9 submitting any evidence about claims of discrimination other  
10 than his own. For these reasons, evidence related to  
11 Ms. Bennett will not be allowed in.

12 All right. Ms. Williams, would you now bring in the  
13 jury, please.

14 MS. GREENE: Your Honor, before that happens, we just  
15 have one quick question for the Court.

16 There is a witness — we've struggled, both sides,  
17 with the witness order. There's one witness who flew in from  
18 California to testify today. Other witnesses have flown in  
19 from Texas and other places. If that particular witness is not  
20 able to testify, she would be able to testify remotely on  
21 Wednesday if the Court has those capabilities, and we've been  
22 discussing this with defendant.

23 So the question is does the Court have the capability  
24 for remote testimony? And we can discuss more at lunch time  
25 perhaps, but I just wanted to tee that up as a question related

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1 to one particular witness.

2 THE COURT: Sure. We absolutely have that capability.

3 Right, Ms. Williams?

4 THE DEPUTY CLERK: Yes.

5 THE COURT: And if both sides are agreeable, then we  
6 can make that happen.

7 (Continued on next page)

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1 MR. GAGE: Your Honor, I just want to work out --  
2 understand how it's going to work with exhibits and what the  
3 witness can see. I don't know why the witness can't be here.  
4 We've got people flown here, left, and are coming back. I just  
5 want to make sure we know how this is going to work.

6 THE COURT: You know, this was regular way at the  
7 height of COVID during lockdown. So there is a way to do it, I  
8 am sure. I wasn't doing it then, but I know it can be done.

9 So you all continue talking and let me know where you  
10 come out, and then we'll make the arrangements.

11 MR. GAGE: Should we get the witness?

12 THE COURT: Oh, yes, you should.

13 MS. GREENE: While he is doing that, would it be  
14 possible to speak with the technician at lunchtime just to  
15 understand what that might entail so we can make a decision?

16 THE COURT: Yes. Ms. Williams, can you help make that  
17 happen? I guess that's AV, right?

18 MS. GREENE: Yes.

19 THE COURT: Okay.

20 MS. GREENE: Thank you.

21 THE COURT: Sure.

22 (Jury present)

23 THE COURT: Good morning. The weekend is almost here.

24 Thank you for your close attention.

25 All right. Everybody be seated, please.

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Vardaman - Cross

1 Ms. Tomezsko.

2 MS. TOMEZSKO: Thank you.

3 STUART VARDAMAN,

4 called as a witness by the Plaintiff,

5 having been previously duly sworn, testified as follows:

6 CROSS-EXAMINATION (continued)

7 BY MS. TOMEZSKO:

8 Q. Good morning, Mr. Vardaman.

9 A. Good morning.

10 Q. Can you just move a little bit closer to the microphone.

11 A. Is that better?

12 Q. Yes, that's better, thank you.

13 A. Good morning.

14 Q. Good morning.

15 Mr. Vardaman, yesterday we talked about Ms. Rowe  
16 completing panel interviews for the financial services vertical  
17 lead role, do you recall that?

18 A. Yes, I do.

19 Q. Do you recall whether at any point Ms. Rowe circled back  
20 with you about those interviews to tell you how they went?

21 A. I really don't recall.

22 Q. I'd like to show you a document, if I can. It is  
23 Plaintiff's 50.

24 MS. TOMEZSKO: May we publish that to the jury.

25 Jean, can you scroll to the next page, please.

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Vardaman - Cross

1 Q. Mr. Vardaman, do you recognize this document as an email  
2 between you and Ms. Rowe in or around the August 8th, 2018 time  
3 frame?

4 A. I see the date and my name and Ms. Rowe's name, yes.

5 Q. On August 8th, 2018, does this reflect that Ms. Rowe wrote  
6 to you: Hi, Stuart. Had good conversations today with Darryl,  
7 Vats, and Jason. On my way back to New York now.

8 A. Yes, that's what it says.

9 Q. Does that refresh your recollection that Ms. Rowe circled  
10 back with you to update you on how those interviews went after  
11 she completed them?

12 A. Yes, ma'am, it's -- it's here.

13 Q. At any point did Ms. Rowe ever indicate to you that she  
14 felt that those interviews were odd or a little off in any way?

15 A. No, not that I recall.

16 Q. After those interviews, did you receive feedback from those  
17 interviewers about Ms. Rowe?

18 A. I believe I alluded to that I'd received feedback outside  
19 of the gHire system via ping.

20 Q. When you received that feedback, what did you do with it?

21 A. In that situation, which is pretty common at Google, we ask  
22 our hiring managers to take that feedback and put it into  
23 gHire, along with their complete notes.

24 Q. I'd like to show you what's been marked as Plaintiff's 69.

25 MS. TOMEZSKO: Can we pull that up, please, Jean.

NADVROW2

Vardaman - Cross

1 Q. Mr. Vardaman, do you recognize this document?

2 A. This is a -- the cadence of meetings with Mr. Shaukat was  
3 on a weekly basis; and I tended to produce this document on a  
4 weekly basis for our meetings.

5 Q. And we can scroll through the document, if you like,  
6 Mr. Vardaman, but could you, to the best of your recollection,  
7 summarize to the jury what is in this document as it relates to  
8 the financial services vertical lead role?

9 A. As it relates to the financial services vertical lead role,  
10 this would be the updates that I had access to at any given  
11 point in time, any given date. I tried to keep the document as  
12 a historical document and update it on a weekly basis with a  
13 new entry.

14 Q. Would a summary of the feedback that you had received about  
15 any of the candidates for the role be reflected anywhere in  
16 this document?

17 A. It's certainly possible. In order to spur movement on the  
18 searches, it's certainly possible.

19 Q. You alluded to weekly meetings with Mr. Shaukat. Did you  
20 discuss the content of this document with Mr. Shaukat during  
21 those meetings?

22 A. Yes. This would be -- so because Mr. Shaukat was in  
23 California, I was in Texas, we would meet via Google  
24 videoconference. And I would typically project this, share my  
25 screen, show this, and this would be the backdrop for going



NADVROW2

Vardaman - Cross

1 through the various searches.

2 MS. TOMEZSKO: I'd like to flip to page 103 of this  
3 document, please. And this is just to establish -- 103. Can  
4 we go to the August 31st; I think it's a few pages back.

5 No problem. I can streamline. It's okay. It's okay.

6 Q. Did you ever email this document to Mr. Shaukat?

7 A. Yes. As a result of Mr. Shaukat's schedule, which was  
8 about as busy as Diane Greene's, sometimes our weekly hold  
9 would evaporate; and so I would send it to him just so that as  
10 he had time on a plane or something along those lines, he still  
11 had access to what was going on across the searches I was  
12 working on.

13 MS. TOMEZSKO: Can you pull that up, please.

14 Q. Mr. Vardaman, do you recognize this as an email from you to  
15 Mr. Shaukat in or around the 1st of September, 2018?

16 A. I do.

17 Q. I'd just like to look at the first couple lines of this  
18 email where it says: Hi, Tariq. I hope you are looking  
19 forward to a nice holiday weekend. Please see here for the  
20 full report. Do you see that?

21 A. I do.

22 Q. The word "here" appears to be a hyperlink. Do you agree  
23 with that characterization?

24 A. It is.

25 Q. That hyperlink, is it linked to the document we were just

NADVROW2

Vardaman - Cross

1 looking at, the status updates?

2 A. That would be my practice, yes.

3 Q. And so would Mr. Shaukat be able to click on that link and  
4 access the document that we were just looking at, P-69?

5 A. He would.

6 Q. Just flipping back to the document that we were just  
7 looking at, P-69, just very briefly, I'd like to go to page 81  
8 of the document, I think. Yes.

9 Okay. Do you see under "Tariq active searches" the  
10 second entry for financial services chasing feedback for Ulku?  
11 Do you see that?

12 A. I do.

13 Q. When you said "chasing feedback," what are you referring to  
14 there?

15 A. I'm really trying to get the executive panel members to  
16 input their formal feedback in the gHire system.

17 Q. Did you intend to reflect that you were chasing feedback  
18 just broadly for Ulku, whether it was in the gHire system or  
19 otherwise?

20 A. Our orientation as recruiting, in recruiting, is to really  
21 spur the entry into gHire.

22 Q. And so just to be clear, are there any limitations on who  
23 can enter feedback and hiring recommendations into gHire?

24 A. Yes, it's the sole individual, the panel member, his or  
25 herself.

NADVROW2

Vardaman - Cross

1 Q. If you were to receive any feedback in another format, for  
2 example, over a ping or during a Google videoconference, would  
3 you be able to enter that feedback that you received into the  
4 gHire system?

5 A. No.

6 Q. I'd like to show you --

7 MS. TOMEZSKO: Oh, and perhaps this is a good time for  
8 the limiting instruction, your Honor.

9 THE COURT: Members of the jury, you are about to see  
10 several exhibits marked Defendant's Exhibit 70, 71, and 79, all  
11 of which consist of hiring-related materials.

12 This evidence is admitted for a limited purpose. It  
13 is admitted only for its effect on anyone who reviewed these  
14 materials. You may not consider these hiring-related materials  
15 for their truth, meaning you may not consider them as evidence  
16 that any applicant actually had those qualifications for the  
17 financial services vertical lead position and/or the VP  
18 financial services sales position.

19 You may give this evidence such weight as you feel it  
20 deserves, but only for the limited purpose for which it has  
21 been offered. You may not use this evidence for any other  
22 purpose.

23 BY MS. TOMEZSKO:

24 Q. I'd like to show you what's been marked as Defendant's 71,  
25 please. Mr. Vardaman, do you recognize this document?

NADVROW2

Vardaman - Cross

1 A. This would be an output from gHire for candidate Ranjanna  
2 Clark.

3 MS. TOMEZSKO: If we could scroll through and flip  
4 through a few pages.

5 Q. Do you see, is there any feedback missing from Ms. Clark's  
6 packet here?

7 A. Yes. The triangle with the exclamation point indicates  
8 that a draft not yet submitted. That means that the panel  
9 member may have opened it but had not submitted their feedback  
10 as of the time this report was run.

11 Q. And again, was that common or unusual at Google for  
12 feedback not to be entered into the gHire system?

13 A. Absolutely not. It was very, very common.

14 Q. Would that preclude a candidate from advancing through the  
15 process?

16 A. It would not.

17 MS. TOMEZSKO: I don't believe this exhibit is subject  
18 to any stipulations of admissibility, so I would like to  
19 formally move for the admission of D-71 into evidence, your  
20 Honor.

21 MS. GREENE: No objection.

22 THE COURT: Yes. It's admitted into evidence.

23 (Defendant's Exhibit 71 received in evidence)

24 Q. I'd like to show you now D-70.

25 Mr. Vardaman, do you recognize this document?

NADVROW2

Vardaman - Cross

1 A. Yes, this would be a similar document, but for candidate  
2 Diana Leyfield.

3 Q. And scrolling through this document, if we can, does this  
4 also reflect that there are -- there's missing feedback that  
5 was not entered into gHire for Ms. Leyfield as well?

6 A. Correct. The triangle with the exclamation point is there  
7 as well.

8 Q. And this would not have precluded her from advancing  
9 through the process either?

10 A. I didn't see the title, but that looks like the role in  
11 which she joined Google.

12 MS. TOMEZSKO: I just want the record to be clear.  
13 Can we scroll through till we get to the financial services  
14 vertical lead position.

15 Q. Do you see on the bottom where it says financial services  
16 vertical lead?

17 A. Yes, ma'am.

18 Q. And would the subsequent pages following this reflect the  
19 feedback for that particular role?

20 A. Yes, that's correct.

21 Q. And scrolling through those, do you see that this is  
22 also -- that's missing some of the information entered for the  
23 candidate in gHire?

24 A. Yes, the triangle with the exclamation point is present.

25 Q. And again, would that preclude Ms. Leyfield from moving

NADVROW2

Vardaman - Cross

1 through the process?

2 A. No, ma'am.

3 Q. Similarly, if there was gHire feedback missing for Ms. Rowe  
4 as a candidate for the financial services vertical lead role,  
5 would that in itself have precluded her from moving and  
6 advancing through the process?

7 A. No, ma'am, not in practice.

8 MS. TOMEZSKO: I'd also like to move for the admission  
9 of this document as well, D-70.

10 THE COURT: Ms. Greene?

11 MS. GREENE: No objection.

12 THE COURT: Admitted into evidence.

13 (Defendant's Exhibit 70 received in evidence)

14 MS. TOMEZSKO: We could take this document down.

15 Q. Mr. Vardaman, you were also the recruiter for an open  
16 position in Kirsten Kliphouse's organization in 2020, is that  
17 right?

18 A. That is correct.

19 Q. That was the VP of financial services sales position?

20 A. That is correct.

21 Q. What was your role in helping Ms. Kliphouse to fill that  
22 position?

23 A. I was the lead executive recruiter running the process for  
24 Ms. Kliphouse.

25 Q. And in that capacity, were you the person making decisions

NADVROW2

Vardaman - Cross

1 about which candidates would be put into the interview process?

2 A. No.

3 Q. Who was making those decisions?

4 A. It would be Ms. Kliphouse.

5 Q. Do you recall who was ultimately hired into that position,  
6 the VP of financial services sales?

7 A. Yes, a female by the name of Yolande Piazza.

8 Q. I'd like to, if we may, show you Defendant's 79.

9 MS. GREENE: To be clear, this is just for the  
10 witness.

11 MS. TOMEZSKO: I thought this one was subject to the  
12 limiting --

13 MS. GREENE: I'm sorry. You're right. My apologies.

14 THE COURT: Can you remind us of Ms. Kliphouse's  
15 title, do you remember?

16 THE WITNESS: She was VP North American sales, as I  
17 recall.

18 THE COURT: Okay. Thank you.

19 BY MS. TOMEZSKO:

20 Q. Mr. Vardaman, do you recognize this document?

21 A. Yes, I do.

22 Q. And what is it?

23 A. It would be -- it looks like output from gHire and/or the  
24 documents that we put together for her packet, her hiring  
25 packet.

NADVROW2

Vardaman - Cross

1 Q. Hiring packet. Okay. And --

2 MS. TOMEZSKO: Oh, may I move for the admission of  
3 this document as well, your Honor, D-79.

4 THE COURT: Plaintiff?

5 MS. GREENE: No objections.

6 THE COURT: Admitted into evidence.

7 (Defendant's Exhibit 79 received in evidence)

8 MS. TOMEZSKO: Thank you.

9 Q. Mr. Vardaman, did you discuss with Kirsten Kliphouse the  
10 candidates for the vice president financial services sales  
11 position?

12 A. In discussing, my job was to help her understand which  
13 candidates were in process, walk through backgrounds at a high  
14 level, and ultimately defer to who she'd like to move forward  
15 in the process.

16 MS. TOMEZSKO: We could take this document down. And  
17 I'd like to publish a document only to the witness, please.  
18 Defendant's 77.

19 Q. Mr. Vardaman, do you see the document here?

20 A. I do.

21 Q. Without reading from the document, do you recognize it?

22 A. Well, it looks like a status report.

23 Q. Did you create these?

24 A. Yes.

25 Q. For what purpose did you create this document?



NADVROW2

Vardaman - Cross

1 A. To keep track of the searches -- of the search and its --  
2 and its updates on an ongoing basis.

3 Q. Did you create them in preparation for any meetings or  
4 discussions with Ms. Kliphouse about the position?

5 A. Typically, yes. The way that it manifested for  
6 Ms. Kliphouse in particular is our meetings, she would  
7 sometimes just call me. She's like, Hey, I'll call you this  
8 week. And so it was on me to, on a daily basis, if I had  
9 updated information, to kind of keep this running so that if I  
10 got a call from her, I could provide her the most relevant  
11 information, updated information.

12 Q. Does this document reflect the notes that you made in  
13 preparation for those meetings with Ms. Kliphouse?

14 A. Yes, these would be the high-level distilled notes.

15 Q. And does it at all reflect the -- any of your notes of the  
16 conversations that you actually had with Ms. Kliphouse when you  
17 would update her on the role?

18 A. I don't -- I don't see it here.

19 Q. Would it help if we should scroll through?

20 A. Possibly.

21 MS. TOMEZSKO: Can you go to the next page.

22 Q. In practice, would these documents reflect the discussion  
23 of the -- about the role that you had with Ms. Kliphouse?

24 MS. GREENE: Objection.

25 THE COURT: Can you restate that please.

NADVROW2

Vardaman - Cross

1 MS. TOMEZSKO: Sure.

2 Q. Was it your practice to record in these types of documents  
3 the substance of your conversations with Ms. Kliphouse during  
4 those discussions?

5 A. I certainly could have. I do not see the separate column  
6 where I actually have those notes listed out for -- during the  
7 meeting itself.

8 Q. If I understand you correctly, this is a document created  
9 specifically in preparation for your discussions with  
10 Ms. Kliphouse, and it is your notes and impressions that you  
11 see reflected here?

12 A. I think that's accurate, yes, ma'am.

13 Q. And if you could place in time when these notes were  
14 created in relation to your discussions with Ms. Kliphouse.

15 A. Can I read from it now?

16 THE COURT: Not out loud.

17 Q. Not out loud.

18 A. I tried to provide the date that I had last updated it.  
19 And with the intention that I could receive a phone call from  
20 Kirsten either at our standing time or not on an *ad hoc* basis.

21 MS. TOMEZSKO: We could take that document down. I  
22 just want to ask some general questions, if we may.

23 Q. Did you, in fact, discuss Ms. Rowe with Ms. Kliphouse  
24 during any of your meetings with her concerning the VP  
25 financial services sales role?

NADVROW2

Vardaman - Cross

1 A. I recall that I mentioned to Kirsten that Ms. Rowe is  
2 interested. And that is the response where Ms. Kliphouse told  
3 me that she had met Ms. Rowe for coffee.

4 Q. Did Ms. Kliphouse tell you anything else other than that  
5 she had met Ms. Rowe for coffee?

6 A. No, not that I recall.

7 Q. Did Ms. Kliphouse indicate to you whether she should  
8 advance Ms. Rowe through the process of interviewing for the  
9 financial services -- the VP financial services sales position?

10 MS. GREENE: Objection.

11 THE COURT: Objection, just in a word or two.

12 MS. GREENE: Leading.

13 THE COURT: Rephrase.

14 Q. Did Ms. Kliphouse express to you her opinion on Ms. Rowe's  
15 candidacy for the VP financial services sales position?

16 A. Ms. Kliphouse asked me to focus on Yolande Piazza and wind  
17 down other candidates.

18 Q. When you say "wind down other candidates," what do you mean  
19 specifically?

20 A. That can mean putting on hold or closing out, and I  
21 interpreted that mean to close out.

22 Q. And I want to just skip ahead -- or, rather, back to  
23 something you mentioned yesterday. And that was a conversation  
24 that you had with Ms. Rowe back in June 2018, when Mr. Shaukat  
25 asked you to put her through the process for the financial

NADVROW2

Vardaman - Cross

1 services vertical lead position. Do you recall that?

2 A. I do.

3 Q. And what was the word you used yesterday to describe your  
4 feeling about that conversation?

5 A. I believe I used the word "disrespected."

6 Q. Can you explain to the jury why you felt disrespected?

7 A. I had connected with Ms. Rowe so that I could highlight the  
8 process with her and get enough information on her background  
9 so that I could write the prep note that I believe came up  
10 yesterday. And over the course of that conversation, I was  
11 taken aback by feeling dismissed that I was interrupted and  
12 largely disrespected, I felt, at the core of it being my level  
13 at Google relative to Ms. Rowe's.

14 Q. What about your level relative to Ms. Rowe's led you to  
15 feel that way?

16 A. Sorry, I don't understand.

17 Q. You said your level relative to Ms. Rowe's. I just want to  
18 understand what that means and how that led you to feel  
19 disrespected.

20 A. I think I said it yesterday. As steward of the process, my  
21 job, my ownership, my pride, for lack of better terms, centers  
22 on running the process, the recruiting process, for Google.  
23 That is what I do. And I felt largely dismissed as a result of  
24 the conversation that I had with Ms. Rowe.

25 Q. During that conversation, was it your understanding that

NADVROW2

Vardaman - Cross

1 Ms. Rowe was accusing you of any wrongdoing whatsoever?

2 MS. GREENE: Objection. Leading.

3 THE COURT: Overruled. Open-ended question.

4 A. I'm sorry, can you restate it?

5 Q. Sure. Was it your understanding as a result of that  
6 conversation that Ms. Rowe was accusing you of any wrongdoing?

7 A. No, ma'am.

8 Q. The feeling that you just expressed, feeling disrespected  
9 and dismissed, did you allow that to impact how you ran the  
10 process for the financial services vertical lead position for  
11 Ms. Rowe?

12 A. I did not.

13 Q. After your conversation with Ms. Rowe, did you schedule  
14 panel interviews with her with four vice presidents?

15 A. I did.

16 Q. Did you ever share how you felt in that conversation or  
17 that the conversation even happened with any of those  
18 interviewers?

19 A. I did not.

20 Q. And after that, did you work to get Ms. Rowe a meeting with  
21 Diane Greene in December of 2018?

22 A. Yes.

23 Q. And did you share with either Ms. Greene or anyone on her  
24 staff that you had that conversation with Ms. Rowe and how it  
25 made you feel?

NADVROW2

Vardaman - Cross

1 A. I did not.

2 Q. Did you ever share that conversation and your personal  
3 feelings about it with Mr. Shaukat?

4 A. I did not.

5 Q. Just to be clear, at any point while you were working on  
6 the financial services vertical lead role from 2018 through  
7 early 2019, when I believe you said the search was canceled,  
8 did you have any reason to believe that Ms. Rowe had raised a  
9 concern of gender discrimination?

10 A. No.

11 Q. In early 2020, you mentioned yesterday that you had met  
12 with employee relations. Do you recall that testimony?

13 A. Yes, I do.

14 Q. And I believe you said you discussed a number of topics  
15 during that meeting; is that right?

16 A. Yes.

17 Q. Did you cooperate with employee relations during that  
18 process?

19 A. Yes, of course.

20 Q. Were you forthcoming in your interview with employee  
21 relations?

22 A. Yes.

23 Q. During the interview with employee relations, did you  
24 believe that you were being accused of doing anything improper?

25 A. No.

NADVROW2

Vardaman - Cross

1 Q. Subsequently when you were running the process for  
2 Ms. Kliphouse's role, the VP of financial services sales, did  
3 you tell her that you had been interviewed by employee  
4 relations?

5 A. I did not.

6 Q. Did you reference at all the fact that you had spoken with  
7 employee relations at all?

8 A. No.

9 Q. Did you tell Ms. Kliphouse about the conversation that you  
10 had with Rowe -- Ms. Rowe in 2018?

11 A. I did not.

12 Q. And did you share with her at all your personal feelings  
13 about that conversation?

14 A. I did not.

15 Q. Did your interview with employee relations have any effect  
16 on how you did your job with respect to the VP financial  
17 services sales position?

18 A. No.

19 Q. Did your personal feelings about that conversation that you  
20 had back in 2018, did that at all impact the way you did your  
21 job with respect to the financial services sales role?

22 A. No.

23 Q. In your opinion, Mr. Vardaman, was Ms. Rowe given a fair  
24 opportunity to compete for the financial services vertical lead  
25 role?

NADVROW2

Vardaman - Redirect

1 A. She was.

2 Q. And in your opinion, was she given a fair opportunity to  
3 compete for the VP financial services sales role?

4 A. She was.

5 Q. Thank you.

6 REDIRECT EXAMINATION

7 BY MS. GREENE:

8 Q. Mr. Vardaman, you're represented by Google's counsel;  
9 correct?

10 A. Yes, that's correct.

11 Q. And did they pay you for the cost of flying here?

12 A. For the cost of flying here?

13 Q. Yes.

14 A. Yes, I understand I am to be reimbursed.

15 Q. And did they meet with you in preparation for your  
16 testimony?

17 A. Tuesday night I met with them, yes.

18 Q. And had you spoken to them at other times leading up to  
19 your testimony yesterday and today?

20 A. Prior to Tuesday?

21 Q. Yes.

22 A. No. Email communication.

23 Q. You did speak with them in preparation for your deposition;  
24 correct?

25 A. In preparation for my deposition, yes, ma'am.



NADVROW2

Vardaman - Redirect

1 Q. And they represented you at your deposition as well;  
2 correct?

3 A. Yes, they were there on the video.

4 MS. GREENE: Let's look back at those hiring packets  
5 for Diane Leyfield and Ranjanna Clark. We can start with D-70.  
6 Thank you. And if we could go to the page Bates stamped 403.R.

7 Q. This represents and notes that on September 10th, 2018,  
8 Mr. Shaukat interviewed Ms. Leyfield; correct?

9 A. Yes, ma'am, that's what it looks like.

10 MS. GREENE: Okay. Let's take that down. And if we  
11 can go now to D-71.

12 A. Forgive me. I have red marks all over my screen. Is it --  
13 oh, thank you.

14 Q. How's that?

15 D-71. And if we can go to the page that ends with 43.

16 And this shows that Mr. Shaukat had interviewed  
17 Ms. Clark as well, correct, in this case in April of 2018?

18 A. Yes, ma'am. That looks like when it was scheduled.

19 Q. Mr. Shaukat did not interview Ms. Rowe; correct? That was  
20 your testimony yesterday?

21 A. Yeah. That's right. He wanted the -- as I recall, the  
22 panel members to go first.

23 Q. Now, you said that you received feedback via ping; correct?

24 A. Yes, ma'am.

25 Q. And how many times did Darryl Willis ping you about

NADVROW2

Vardaman - Redirect

1 Ms. Rowe?

2 A. I really don't remember. I probably pinged him more often  
3 to say, You met with Ms. Rowe, you met with any other  
4 candidates, please make sure you're entering the feedback in  
5 gHire.

6 Q. And how many pings did he actually give you feedback?

7 A. I don't know. At least one.

8 Q. And what about the other candidates, how many pings did you  
9 get from them where they actually provided you with feedback?

10 A. At least one. If I had an inclination that it went well,  
11 it's highly possible that it would have come via ping.

12 Q. Okay. And were those pings where they give you their  
13 feedback on the meeting, were those close in time to when the  
14 interviews actually happened?

15 A. It depended on when -- how busy they were. Sometimes if --  
16 so immediately after an interview, the system -- like, if  
17 it's -- if it's scheduled for 9 in the morning, at 10 in the  
18 morning that day, the system automatically starts sending  
19 emails prompting the executives answer their EBPs to enter the  
20 feedback. When that doesn't happen quickly, that's typically  
21 when a recruiter like myself will follow up via ping. And so  
22 there's really -- I think it's hard to provide an estimate as  
23 to when the ping that actually resonated and got a response  
24 occurred.

25 Q. Okay.

NADVROW2

Vardaman - Redirect

1 MS. GREENE: So P-69, let's go back there. And if we  
2 can go to the page that ends with 838.

3 Q. This is August 10th; correct?

4 A. Yes, ma'am, that's the date.

5 Q. And so this is after Ms. Rowe had been interviewed by the  
6 panelists; correct?

7 A. I don't recall the exact date of Ms. Rowe's interviews.

8 MS. GREENE: Okay. Let's go to the next page, if we  
9 can. And we see Ms. Rowe's entry. If we can call that out  
10 again.

11 Q. Awaiting complete feedback. Vats liked her, Darryl liked  
12 her, had some questions, followership.

13 Is that information you got via ping?

14 A. Yes, I would say that's a reasonable conclusion.

15 Q. Okay. If you had gotten additional information via ping,  
16 would you have included it in these updates?

17 A. It's likely, yes.

18 Q. Okay. And you didn't share with Mr. Shaukat the specifics  
19 of any pings that you received; correct?

20 A. I don't recall the specifics.

21 Q. Well, you testified yesterday that you didn't share with  
22 Mr. Shaukat the feedback you got via pings; correct?

23 A. I believe I said I didn't recall sharing that. I'd be  
24 happy to be proven wrong if I said that yesterday.

25 Q. We'll come back to that.

NADVROW2

Vardaman - Redirect

1 MS. GREENE: But for the time being, let's take that  
2 down and let's go to the document 825.RR.

3 Q. And here for Ms. Rowe we see that same entry: Chasing  
4 feedback. Met with Sebastien, Darryl, Jason, Vats. Vats liked  
5 her, Darryl liked her, had some questions, followership.

6 Correct?

7 A. Yes, that's what's written there.

8 Q. I believe the testimony you gave yesterday, we looked at  
9 your deposition as well about whether you shared feedback. And  
10 you answered no, not for an internal candidate.

11 And for a candidate for whom Tariq was interested in  
12 running the full process, do you recall now that testimony that  
13 you did not provide him with feedback?

14 A. I don't recall that testimony. But again, if I said that  
15 in a deposition and you're going to show it to me, I understand  
16 that. I think feedback here -- I'm clearly still chasing  
17 feedback. That is formal feedback in the system. I would say  
18 that Vats liking her, Darryl liking her is a pretty common  
19 refrain at Google. Hey, yeah, I liked her. I'll get to my  
20 full feedback at some point. And so I provided it here.

21 Q. Okay. So that's the nature of the ping that you got, "I  
22 liked her," not a full recitation of their feedback for her;  
23 correct?

24 A. By default, ping being instant messaging, it would have  
25 been, you know, relatively high level; certainly not as

NADVROW2

Vardaman - Redirect

1 detailed as I would expect the entry into gHire to be. That's  
2 correct.

3 Q. Okay. I think this was August 24th; is that right?

4 MS. GREENE: If we can take that down and just turn to  
5 the page before.

6 Q. I'm sorry, this is August 24th that you noted Vats liked  
7 her, Jason liked her.

8 Okay. Let's go to August 31st, 818. And if we can go  
9 to see the date on this. This is 8/31. And if we can go to  
10 818 again.

11 We see now: Sounds like she is not viable for the  
12 role. That was Sebastien, Darryl, Jason, Vats. There's  
13 nothing in here that's additional ping feedback that you got  
14 from any of these individuals; correct?

15 A. That's correct. There's nothing in there. I believe I  
16 testified that this was me trying to prompt action for a  
17 candidate who had been in process.

18 Q. Okay. So nobody had given you additional feedback between  
19 August 24th and August 31st, when you said she was not viable  
20 for the role; correct?

21 A. I believe I testified that Mr. Martin had also provided  
22 feedback. I don't recall the specific date that that occurred.

23 Q. And nobody had provided you with any sort of extensive  
24 feedback, correct, at any point in time?

25 A. It would -- the extensive feedback would have been listed

NADVROW2

Vardaman - Redirect

1 in gHire.

2 Q. And it wasn't there; correct?

3 A. Correct.

4 MS. GREENE: Let's go back to D-10.

5 Q. This is September 1st; correct?

6 A. Yes, ma'am, that's the date.

7 Q. And it says: It doesn't sound like she is viable for the  
8 VP role. And you're asking.

9 But just to be clear, you haven't gotten any other  
10 feedback via ping about Ms. Rowe; correct?

11 A. The only other feedback that I recall getting was from  
12 Jason Martin via ping. And as I just said, I don't recall  
13 exactly what date that had occurred. Again, this was me -- and  
14 you can see there that I mention that Ulku has been in the  
15 ether for a bit.

16 One of the dings, I feel like are critiques of  
17 recruiting processes in general, is that people -- candidates  
18 in particular can feel like they are just hanging out without  
19 updates, and I'm very sensitive to that. And I tend to believe  
20 that candidates like to know one way or the other. And so that  
21 really is me trying to get some type of clear decision for  
22 Ms. Rowe.

23 Q. Ranjanna Clark had been hanging out for a while, too,  
24 right? She was interviewed by Mr. Shaukat in April?

25 A. And I was wildly uncomfortable about that, too.

NADVROW2

Vardaman - Redirect

1 Q. You don't call that out in this email though, do you?

2 A. No, because she -- I believe I had already told her that it  
3 was going to be a while. And so my cadence in following up  
4 with her, an external candidate, would be on probably a  
5 three-to-four-week basis.

6 Q. Just to be clear, you're saying it was your opinion she  
7 wasn't viable, and that was based on a handful of short pings  
8 that you received from some of the panelists; is that right?

9 A. It's not my opinion. Again, this is me trying to prompt  
10 action. And if you're asking if I took the information I  
11 received via ping to formulate this exact sentence, then yes,  
12 ma'am, that's a reasonable conclusion.

13 Q. Well, Mr. Shaukat did decide that Ms. Rowe indeed was not  
14 viable; correct? That she was not a candidate going forward?

15 A. I don't recall exactly when that was, but at some point I  
16 recall Tariq mentioning -- Mr. Shaukat mentioning that he would  
17 connect with Ms. Rowe.

18 Q. And no additional feedback had come in before Mr. Shaukat  
19 made that decision; correct?

20 A. I recall Mr. Shaukat asking me to send an email to the  
21 panel members to ask them to send email feedback to  
22 Mr. Shaukat.

23 Q. Mr. Shaukat didn't get any email feedback; correct?

24 MS. TOMEZSKO: Objection.

25 Q. Do you know whether Mr. Shaukat got any email feedback?

NADVROW2

Vardaman - Redirect

1 THE COURT: I'll allow that.

2 A. Sorry.

3 Q. Do you know whether Mr. Shaukat got any email feedback?

4 A. No, ma'am, I don't have access to Mr. Shaukat's email.

5 Q. Let's take a moment to look at D-79. And this is Yolande  
6 Piazza's hiring packet?

7 A. Yes, ma'am, that's what it looks like.

8 Q. And what was her education status?

9 A. As I recall, Ms. Piazza did not -- did not have an  
10 undergraduate degree.

11 Q. And so she obviously then didn't also have a graduate  
12 degree; correct?

13 A. I believe that's correct.

14 Q. Okay. And under work history, it notes that she spent 32  
15 years progressing with the same company; correct?

16 A. Yes, ma'am.

17 Q. Let's go to the third page.

18 Do you see in the first full paragraph where it says:  
19 "She will need support from a sales leader."

20 MS. GREENE: If you can just highlight that line,  
21 Vincent.

22 Q. She will need support from a sales leader who comes from a  
23 software sales background.

24 THE COURT: Can you highlight that?

25 Q. And we can certainly provide her with that resource.



NADVROW2

Vardaman - Redirect

1 Do you see that?

2 A. Yes, I do.

3 Q. Okay. So Ms. Piazza didn't have a sales background;  
4 correct?

5 A. She was responsible for the sales organization in her job  
6 as CEO of City Fintech, as I recall.

7 Q. So she was going to have to get sales support from within  
8 Google in order to be a candidate or considered for the role;  
9 correct?

10 A. It's not uncommon for an executive who joins Google to have  
11 an area where they need additional support from the  
12 organization. As I recall, Ms. Kliphouse, given Yolande's  
13 seniority and relationship, she was prepared to provide that to  
14 her, yes, ma'am.

15 MS. GREENE: Okay. You can take that down.

16 THE WITNESS: May I grab another water?

17 MS. GREENE: Oh, please do.

18 Q. I'm going to show you a document that is only for your  
19 eyes; it's not to share with the jury at this time.

20 A. And forgive me, the rules on this is that I can't read from  
21 it but I can talk to it?

22 Q. Correct.

23 A. Okay.

24 Q. I'm just going to ask you -- well, before we do that, do  
25 you recall when Ms. Rowe reached out to you? I think we saw

NADVROW2

Vardaman - Redirect

1 some emails earlier about the financial services sales role.

2 A. I don't recall the specific date, no, ma'am.

3 Q. Do you recall when you raised with Ms. Kliphouse Ms. Rowe's  
4 candidacy?

5 A. As I alluded to earlier, the *ad hoc* nature of working with  
6 Ms. Kliphouse was -- it was just that, it was *ad hoc*; so I  
7 can't say the exact date.

8 Q. Would you ever initiate a meeting with her when a new  
9 candidate arose?

10 A. We tried to have a schedule whereby she thought and her  
11 executive assistant thought that she had a reasonably good  
12 chance of making the meeting. If a customer meeting or  
13 something else came up, an email from Thomas, it wasn't unusual  
14 for that to get punted and to receive an email saying, Hey,  
15 I'll call you later or something along those lines.

16 Q. My question is a little different. If in between your  
17 conversations with Ms. Kliphouse you identified a new  
18 candidate, someone that hadn't been discussed before, would you  
19 raise that with her, Hey, we found this person outside or this  
20 other, would you raise that with her proactively?

21 A. Yes, that was part of providing the status on the search to  
22 her.

23 Q. Okay. So as of February 5th, Ms. Rowe had raised with you  
24 her interest in the role; correct?

25 A. Again, the specific date -- and I'm not looking at anything

NADVROW2

Vardaman - Redirect

1 here yet -- it sounds about right.

2 Q. Actually, I think it was -- I think it was February 4th,  
3 there was a communication on February 5th.

4 Take a look -- let me ask you, do you remember as of  
5 February 7th, whether you had let Ms. Kliphouse know that  
6 Ms. Rowe was a candidate?

7 A. Again, the exact date, I feel like it was in pretty close  
8 proximity, because when I did mention Ms. Rowe's candidacy,  
9 Ms. Kliphouse had mentioned that she had met Ms. Rowe for a  
10 coffee.

11 Q. Let's look for your own information, not to be shared, at  
12 D-78. Again, not to be shared with the jury.

13 Does this refresh your recollection, if you look at  
14 the date and you look at what's listed with respect to active  
15 candidates, whether you had by February 7th raised with  
16 Ms. Kliphouse Ms. Rowe's candidacy?

17 A. Is there another page to this?

18 Q. There is.

19 MS. GREENE: Can we just keep it small and flip to the  
20 next page, Mr. Yang.

21 A. So I'm not sure how to answer the question if I'm not  
22 supposed to talk about what's on the document.

23 Q. I'm asking if it refreshes your recollection about whether  
24 as of February 7th -- so this is three days after Ms. Rowe had  
25 reached out to you -- you had raised with Ms. Kliphouse the

NADVROW2

Vardaman - Redirect

1 possibility of Ms. Rowe's candidacy?

2 THE COURT: Can you go back to the first page, please.  
3 A. If this document is two pages long, Ms. Rowe is not listed  
4 on the document. Am I allowed to say that?

5 MS. GREENE: Actually, Mr. Yang, I believe there's  
6 four pages. Can we go through all four pages.

7 Okay. So that's the totality of the document.

8 Q. Had you, by February 7th, raised with Ms. Kliphouse the  
9 fact that Ms. Rowe had asked to be considered for the role, had  
10 raised her hand?

11 A. She is not listed on this document. That's all I can speak  
12 to.

13 Q. Okay. Do you know whether as of February 14th, you had  
14 alerted Ms. Kliphouse that Ms. Rowe was interested or might be  
15 a prospect for the role?

16 A. You're using specific dates, and I've said that I don't  
17 recall the specific date. I recall getting a live conversation  
18 with Ms. Kliphouse where I mentioned Ms. Rowe, and that's how I  
19 recall that she responded, that she had grabbed coffee with  
20 Ms. Rowe.

21 Q. If you had proactively alerted Ms. Kliphouse to Ms. Rowe's  
22 candidacy, would it have shown up on the update list that you  
23 created yourself?

24 A. It depends on the last time that I updated this, taking  
25 into account the other number of searches that I had open and

NADVROW2

Vardaman - Redirect

1 active at any given point in time.

2 Q. So just to refresh your recollection, let's look at D-76.

3 MS. GREENE: And if we can just slowly skim through  
4 the document for the witness.

5 THE COURT: This one you're also not going to read  
6 from.

7 THE WITNESS: Yes, ma'am.

8 Q. Does that refresh your recollection as to whether as of  
9 February 14th, you had raised with Ms. Kliphouse that Ms. Rowe  
10 was either a prospect or a candidate for the position?

11 A. I don't see her name on here. It's possible there could be  
12 another document that does have that. I don't remember.

13 Q. Now, Ms. Rowe had emailed you on February 10th, asking  
14 about her candidacy; correct?

15 A. I feel like you're going to show me something that's going  
16 to reference February 10th; so again, on the outset, I don't  
17 recall if it was February 10th.

18 Q. Okay. We've looked at P-106 before. We can bring it up  
19 again just to remind you of the dates here.

20 A. Okay.

21 MS. GREENE: Mr. Yang, can you bring up P-106.

22 And this is the email correspondence. And if we can  
23 go to the first page. And we can go back in time to the first  
24 email. My apologies.

25 Q. So February 4th, she reaches out. February 5th, she

NADVROW2

Vardaman - Redirect

1 reaches out, you see. February 10th, she's reached out to you;  
2 correct?

3 A. Yes, ma'am.

4 Q. And you're not aware as of February 14th, having done  
5 anything to let Ms. Kliphouse know that Ms. Rowe had been  
6 reaching out and was interested and wanted to be considered for  
7 the position; correct?

8 A. No, I believe I said I don't recall when my conversation  
9 with Ms. Kliphouse was.

10 Q. Let's, if we can, go to -- well, let me ask you, do you  
11 recall -- when was the first time that you alerted or even  
12 thought to alert Ms. Kliphouse that Ms. Rowe was interested?

13 MS. TOMEZSKO: Objection. Asked and answered.

14 THE COURT: Sustained.

15 Q. Okay. Let's turn to the first page of this document,  
16 P-106. So on February 20th, Ms. Rowe reaches out again to  
17 check on updates; correct?

18 A. February 20th. Yes, yes, ma'am.

19 Q. And you say: Hi, Ulku. Not yet. We are trying to get on  
20 Kirsten's calendar tomorrow. Thank you.

21 Do you see that?

22 A. I do.

23 Q. Okay. Now, do you recall if that caused you to do  
24 something in terms of alerting Ms. Kliphouse that Ms. Rowe was  
25 interested for the position?

NADVROW2

Vardaman - Redirect

1 A. It looks like we have a meeting, a scheduled meeting with  
2 Kirsten the next day, February 21st.

3 Q. And do you recall what you did in preparation for that  
4 meeting?

5 A. I may have updated a document.

6 Q. Did you do anything with respect to identifying Ms. Rowe's  
7 qualifications or her experience or talking with anyone  
8 internally about Ms. Rowe or the work that she'd been doing?  
9 Did you do anything of that nature?

10 A. I believe I testified yesterday that I did not.

11 (Continued on next page)

NADHRow3

Vardaman - Redirect

1 Q. Now, was February 21 the first time you let Ms. Piazza know  
2 that — I'm sorry, Ms. Kliphouse know that Ms. Rowe was  
3 interested in the position?

4 MS. TOMEZSKO: Objection. Asked and answered.

5 THE COURT: Sustained.

6 Q. Do you recall whether February 21 was the date on which you  
7 let Ms. Kliphouse know?

8 MS. TOMEZSKO: Same objection. Asked and answered.

9 THE COURT: Sustained.

10 Q. Let me show you a document to refresh your recollection,  
11 D74, and this is just to refresh your own recollection.

12 Does this refresh your recollection as to whether on  
13 February 25 you were alerting — I'm sorry, February 21 you  
14 were alerting Ms. Kliphouse that Ms. Rowe had raised her hand  
15 to be considered for the role?

16 MS. TOMEZSKO: Same objection. Asked and answered,  
17 your Honor.

18 THE COURT: I'll allow it now.

19 A. I do see her name on this document, along with Tais  
20 O'Dwyer.

21 Q. How many other internal candidates were being considered at  
22 that point in time?

23 A. Is there another page? It looks like that's a — OK. It  
24 looks like those two at that juncture.

25 Q. That were being considered for the role?



NADHRow3

Vardaman - Redirect

1 A. They're listed here so that I could, hopefully, get a  
2 response from Ms. Kliphouse.

3 Q. I'm sorry. My question is a little different.

4 How many candidates in total were being considered for  
5 the role at that time?

6 A. Oh, my gosh. I'd have to look at the — the entry for the  
7 search itself and the number of candidates that were tagged to  
8 the search.

9 MS. GREENE: OK. If we can turn to the next two pages  
10 on this document.

11 Q. Let me ask you, does this refresh your recollection on how  
12 many active candidates there were for the role?

13 A. Because a candidate is listed here, what I tried to do, in  
14 working with Google executives, was have a distilled document  
15 that we could discuss. That doesn't necessarily mean that this  
16 distilled document reflects everyone that I've looked at,  
17 reached out to. In general, these were people that had gotten  
18 back to me, so some — or I've had a conversation with or  
19 something along those lines such that it — we could — we  
20 could really pick a hiring manager's brain about whether or not  
21 someone's background looked compelling.

22 Q. So how many of those people were there with respect to the  
23 financial services sales position as of February 21, 2020?

24 A. I have no idea without looking at the system. Certainly,  
25 these people should have been tagged to the search and probably

NADHRow3

Vardaman - Redirect

1 some others that I had identified, that our team had identified  
2 and reached out to but may not have gotten back to us yet.

3 Q. How many people were on the list that you were prepared to  
4 discuss with Ms. Kliphouse?

5 A. Just because you are listed here doesn't mean that we would  
6 talk about them in the meeting. Again, this is a distilled  
7 report, and I — in some ways I wouldn't know which way a  
8 conversation with Ms. Kliphouse or a hiring manager would go.

9 Q. This is a different question.

10 MS. TOMEZSKO: Your Honor, before we proceed, may I  
11 have a sidebar?

12 (Continued on next page)

NADHRow3

Vardaman - Redirect

1 (At sidebar)

2 MS. TOMEZSKO: This is the precise reason I wanted to  
3 show Mr. Vardaman these documents, to establish what was  
4 discussed and at what time both as to Ms. Rowe and the other  
5 candidates who were under consideration. The plaintiff has  
6 objected on that basis on hearsay grounds. She is now using  
7 the document for the exact same purpose.

8 THE COURT: I think she established with him earlier  
9 that it's a business record and that there is not a second  
10 level of hearsay, but then you didn't move it into admission.  
11 You took it down after showing it to him, so we didn't get  
12 there.

13 MS. TOMEZSKO: But now that she's opened at door and  
14 we've discussed this document, like, at length, I think, and  
15 she's asking questions about when it was, who is in the  
16 document, and what it indicates, I think I should be able to  
17 ask him questions about it as well.

18 THE COURT: I don't — I think that the hearsay issues  
19 that were flagged earlier were resolved by your questions of  
20 the witness earlier, and you may use the document.

21 MS. GREENE: Well, your Honor, I've only asked to use  
22 the document in the context of refreshing is recollection. She  
23 didn't move it in, and now she's attempting to introduce new  
24 evidence.

25 THE COURT: Now she's going to do redirect.

NADHRow3

Vardaman - Redirect

1 MS. GREENE: OK. All right.

2 MS. TOMEZSKO: Just a clarification, I would assume  
3 that — well, how would your Honor react if I moved it for  
4 admission now that we've discussed it, that we've established a  
5 foundation for it?

6 MS. GREENE: I'm confused why you keep asking to move  
7 into evidence, because my understanding was that once the  
8 evidence was before the jury, it was moved in. It was  
9 considered to be moved into evidence.

10 MS. TOMEZSKO: The jury has not seen this.

11 MS. GREENE: No, I know, but when you keep saying, can  
12 I move it into evidence, and you're asking if there's an  
13 objection, we just started that this morning because the  
14 understanding was any documents that was shown to the jury was  
15 moved into evidence. So if you're able to show it to the jury,  
16 it's moved into evidence.

17 MS. TOMEZSKO: I apologize. My understanding was that  
18 we made a list of the exhibits that would be moved into  
19 evidence at the beginning of the trial. It was Exhibit A to  
20 the stipulation that we provided to your Honor at the beginning  
21 of the trial. I was being cautious because I wanted to make  
22 sure that documents not in that list were affirmatively moved  
23 into evidence, as I understood that was your Honor's preference  
24 if we did not so stipulate. That's exactly why I was doing  
25 that.

NADHRow3

Vardaman - Redirect

1 MS. GREENE: OK. Well, we have not done it at this  
2 point. We would need, then, to go back to all of the other  
3 documents that both parties have used and —

4 MS. TOMEZSKO: I'm certainly willing to stipulate to  
5 that. If you want to go through the documents, I will  
6 absolutely stipulate to those that have been shown to the jury.

7 MS. GREENE: Let's stipulate now that if it's shown to  
8 the jury, it's moved into evidence.

9 MS. TOMEZSKO: I'm willing to make that stipulation.

10 MS. GREENE: OK.

11 THE COURT: So it sounds like — are you planning to  
12 review it with Mr. Vardaman?

13 MS. TOMEZSKO: Well, I would like to show the jury now  
14 this document and just do a very brief redirect.

15 THE COURT: So what we're going to do, you're going to  
16 do a redirect, you'll indicate that you want to publish the  
17 document, I assume you'll make your objection, I'll make my  
18 ruling, and then we'll go from there.

19 MS. TOMEZSKO: All right.

20 MS. GREENE: Your Honor, if she's going to do it, I  
21 may just bring it in now.

22 MS. TOMEZSKO: OK.

23 THE COURT: OK.

24 MS. TOMEZSKO: I'd be fine with that.

25 THE COURT: Let's do that.

NADHRow3

Vardaman - Redirect

1 (In open court; jurors present)

2 BY MS. GREENE:

3 Q. Let's go ahead and look at D74.

4 Sir, these are your status reports, right? This is  
5 the status report you described?

6 A. Yes, ma'am.

7 Q. And the ones that you had looked at prior did not include  
8 any mention of Ms. Rowe, correct?

9 A. Nor of Tais O'Dwyer, as I recall.

10 MS. GREENE: Is this published to the jury? Let's go  
11 ahead and publish this to the jury, please. Now the jury has  
12 it.

13 Q. So this is as of February 21, and this is the first time  
14 Ms. Rowe has shown up on the list of potential candidates,  
15 correct?

16 A. Internal candidates, Ms. Rowe and Ms. O'Dwyer are both  
17 listed here for the first time, I believe.

18 Q. Let's go through the second and third pages now.

19 So the second page has one, two, three, four, five,  
20 six — seven candidates? And then the eight, nine, ten, 11, 12  
21 — 13 other individuals are listed here beyond Ms. Rowe and  
22 Ms. Dwyer, correct?

23 A. If that's the last page, yes, ma'am.

24 Q. And with respect to Ms. Piazza — let's go back to the  
25 prior page — she was still in the interviewing stage, correct?

NADHRow3

Vardaman - Redirect

1 A. It looks like she's being scheduled with Rob Henslin,  
2 Mr. Henslin

3 Q. And Ms. Neely was still in the interview stage, correct?

4 A. Yes. Looks like she's being scheduled with Ms. Kennedy.

5 Q. And Mr. Alam and Mr. Trevisani both were having meetings  
6 with Kirsten, correct?

7 A. Those are question marks.

8 Q. Then there's others like Mr. O'Malley who — there's still,  
9 I assume, a conversation about whether to have interviews with  
10 them and things, correct?

11 A. That seemed to be what's represented here, yes, ma'am.

12 Q. So it's fair to say that as of February 21, 2020, there was  
13 no selected candidate for this role, correct?

14 A. Yes. It looks like there are candidates of focus, and that  
15 would be indicated by them starting to meet other Google  
16 executives.

17 Q. But no decision had been made as to who would get this  
18 role, correct?

19 A. As to who would get the role, no, that would come later.

20 MS. GREENE: You can take that down.

21 Q. Did you tell employee relations that you had felt dismissed  
22 and disrespected and talked down to by Ms. Rowe because of your  
23 level?

24 A. I believe that's what I was trying to impart to employee  
25 relations.

NADHRow3

Vardaman - Redirect

1 Q. You didn't ever mention your level or anything to do with  
2 leveling as it relates to you and Ms. Rowe in your conversation  
3 with ER, did you?

4 A. No, not that I recall.

5 Q. And when you said to ER that it was Ulku's cantankerous  
6 style that further undermined her chances, you were suggestive  
7 — you didn't let ER know that you were talking about a  
8 personal experience you had with her —

9 A. No, I believe —

10 Q. — did you?

11 A. I believe yesterday I said that my — I believe I said  
12 yesterday that my personal feeling may have come across in  
13 that, but that I certainly don't recall using the word  
14 "cantankerous."

15 Q. But you were asked — or you spoke with ER about the  
16 consideration of Mr. Stuart Breslow and Ms. Ulku Rowe, and we  
17 looked at this yesterday, I believe, and you said that Ulku was  
18 in the risk technology group and didn't have as broad as  
19 Stuart, and between the two internals there was white space  
20 between Stuart's seniority and Ulku's in the industry, coupled  
21 with Ulku's cantankerous style, it undermined her chances. So  
22 you said that style was one of the reasons why she didn't get  
23 the role?

24 A. Again, I don't recall saying that. Again, there was  
25 notetaker in the room taking notes.



NADHRow3

Vardaman - Redirect

1 Q. And today you said your personal perceptions of Ms. Rowe  
2 had nothing to do with any of the decisions or involvement that  
3 you had as the recruiter, is that right?

4 A. They didn't because I don't have the authority to make  
5 decisions.

6 MS. GREENE: No further questions.

7 MS. TOMEZSKO: We have no further questions for the  
8 witness, your Honor.

9 THE COURT: You have no further questions?

10 MS. TOMEZSKO: No.

11 THE COURT: OK. Mr. Vardaman, you may step down.  
12 Thank you.

13 (Witness excused)

14 THE COURT: Why don't you let me know so I can figure  
15 out timing of the break for the jury. What is your plan now?

16 MS. GREENE: The plaintiff will be calling Stuart  
17 Breslow.

18 THE COURT: Do you want to —

19 MS. GREENE: Mr. Chiarello expects that it will be  
20 about a half an hour of examination time.

21 THE COURT: Then I think we should take our break now  
22 and resume at 11:30. I think that will have the continuity.

23 MS. GREENE: Thank you.

24 THE COURT: So, members of the jury, we're going to  
25 take our midmorning comfort break now. It's 11:14. We'll

NADHRow3

Vardaman - Redirect

1 resume at 11:30.

2 Please remember, don't talk to each other or anyone  
3 else about the case, don't do any research about the case, and  
4 the avail yourself of the facilities in the jury room and not  
5 the public bathroom.

6 Thank you.

7 (Jury excused)

8 (Continued on next page)

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NADHRow3

1 (Jury not present)

2 THE COURT: Have a seat.

3 Just one question. We're going to have a limiting  
4 instruction now? Are we having a limiting instruction coming  
5 up relating to Mr. Breslow? I just want to be ready for that.

6 MR. GAGE: I don't anticipate the need for one.

7 THE COURT: OK.

8 MR. GAGE: I'm just doing cross-examination, though.

9 THE COURT: Yes.

10 MR. CHIARELLO: And I don't think so either, your  
11 Honor.

12 THE COURT: All right. Very good. See you in a few.

13 (Recess)

14 (Continued on next page)

NADHRow3

Breslow - Direct

1 (Jury present)

2 THE COURT: Hello. You may be seated. Thank you.

3 STUART BRESLOW,

4 called as a witness by the Plaintiff,

5 having been duly sworn, testified as follows:

6 MS. GREENE: Your Honor, I'm sorry, but our real time  
7 seems to have frozen.

8 MR. GAGE: Can we proceed without it, Judge?

9 THE COURT: If it's not a quick fix, then —  
10 Ms. Williams, do you know, perhaps we learned something from  
11 that.

12 MS. GREENE: It's on the screen, but it's --

13 (Discussion off the record)

14 DIRECT EXAMINATION

15 BY MR. CHIARELLO:

16 Q. Good morning, Mr. Breslow.

17 A. Good morning.

18 Q. Mr. Breslow, is it correct you do not have any formal  
19 education in computer science and computer engineering?

20 A. Yes.

21 Q. Is it correct that you don't hold any degrees in computer  
22 engineering?

23 A. Yes.

24 Q. And you're trained as a lawyer, correct?

25 A. Yes.

NADHRow3

Breslow - Direct

1 Q. And you had a career at Morgan Stanley, the first part of  
2 which was doing litigation work, is that right?

3 A. Yes.

4 Q. Then you spent some time advising on compliance issues as  
5 the chief compliance officer?

6 A. I was Morgan Stanley's chief compliance officer.

7 Q. Was that for around 16, 17 years?

8 A. It was from 1995 to 2001 and 2005 to 2016.

9 Q. The office of the chief compliance officer did not create  
10 or maintain any technology within Morgan Stanley, is that  
11 correct?

12 A. Well, as chief compliance officer, the key — one of the  
13 key elements of making a compliance program work is technology.  
14 So I did have at various times between 125 to 250 technologists  
15 who supported my work as chief compliance officer at Morgan  
16 Stanley.

17 Q. Did you or any of those individuals create technology  
18 within that group?

19 A. Yes.

20 Q. Did you personally create technology?

21 A. No.

22 Q. Now, compliance was a business partner to the IT group at  
23 Morgan Stanley, is that correct?

24 A. Not quite sure what you mean by "business partner," I'm  
25 sorry.

NADHRow3

Breslow - Direct

1 Q. It's a term you used in your deposition. As you understand  
2 the term business partner.

3 A. Sure.

4 Q. Mr. Breslow, have you ever held an engineering role?

5 A. No.

6 Q. And have you had any technical training with respect to  
7 computer science?

8 A. No.

9 Q. Have you had any technical training with respect to  
10 computer engineering?

11 A. No.

12 Q. And you haven't had any training with respect to coding or  
13 programming, correct?

14 A. Correct.

15 Q. Did you ever build an engineering team prior to joining  
16 Google?

17 A. No.

18 Q. And is it correct that you did not work with cloud  
19 technology in any of the roles you held prior to joining  
20 Google?

21 A. Correct.

22 Q. Now, you were hired at Google into a role called the  
23 managing director of technology and policy within Google Cloud,  
24 is that right?

25 A. Correct.

NADHRow3

Breslow - Direct

1 Q. And that was in May of 2018?

2 A. I started in Google, I thought, in July of 2018, but I may  
3 have been hired in May.

4 Q. And at that time were you based in New York?

5 A. Yes.

6 Q. Throughout your tenure at Google, were you based in  
7 New York?

8 A. Correct.

9 Q. The managing director of technology and policy was a  
10 Level 9 role, correct?

11 A. Correct.

12 Q. Did you know that when you were hired, that it was a  
13 Level 9 role?

14 A. Probably not.

15 MR. CHIARELLO: I'd like to put up Plaintiff's 137.  
16 And, Mr. Yang, do not publish it to the jury yet. I don't know  
17 if there's an objection.

18 MR. GAGE: I'm sorry. Is there a question?

19 MR. CHIARELLO: I'm waiting for you. Is there an  
20 objection?

21 MR. GAGE: No.

22 MR. CHIARELLO: Can you please publish 137 to the  
23 jury.

24 BY MR. CHIARELLO:

25 Q. Mr. Breslow, is this your offer letter from Google?

NADHRow3

Breslow - Direct

1 A. It appears to be, yes.

2 Q. And according to your offer letter, you received an annual  
3 salary of \$325,000, is that correct?

4 A. Correct.

5 Q. And you had an annual bonus target of 40 percent, is that  
6 correct?

7 A. Correct.

8 Q. And you received an equity compensation award equal to \$4  
9 million, is that correct?

10 A. Correct.

11 Q. Now, the \$4 million equity award, that was something that  
12 Google offered to you, correct? You didn't ask for that?

13 A. Correct.

14 Q. And that award was not to offset any compensation that you  
15 were forfeiting by coming to Google, correct?

16 A. Correct.

17 Q. You were not forfeiting any equity from McKinsey or Morgan  
18 Stanley by joining Google?

19 A. Correct.

20 Q. And it's correct that you actually didn't negotiate any  
21 aspect of the package. This is the package that Google offered  
22 you, correct?

23 A. Not to my recollection.

24 Q. Now, after you joined Google as managing director of  
25 technology and policy, was it your understanding that in that



NADHRow3

Breslow - Direct

1 role, you would be responsible for working with customers and  
2 partners to explain how Google Cloud meets their compliance and  
3 regulatory needs?

4 A. Among other things, yes.

5 Q. And did you understand that your role was global and  
6 cross-vertical?

7 A. Correct.

8 Q. Do you understand one of your responsibilities to be to  
9 work with customers and partners to define joint initiatives  
10 and co-create their transformation roadmap?

11 A. Yes.

12 Q. Was one of your responsibilities to collaborate across  
13 functional and product area boundaries to bring the best of  
14 Google to the customer?

15 A. Absolutely.

16 Q. Was it your understanding that your role was to lead  
17 regulatory and compliance on the business and customer side for  
18 Google Cloud?

19 A. No.

20 Q. That was not part of your role?

21 A. Not to my recollection, no.

22 MR. CHIARELLO: Mr. Yang, can we play — I'm sorry.

23 Q. You were deposed in this matter, correct?

24 A. Yes.

25 Q. And you gave testimony under oath at your deposition?

NADHRow3

Breslow - Direct

1 A. Yes.

2 Q. Testimony was truthful?

3 A. Yes.

4 MR. CHIARELLO: Mr. Yang, can we play for the jury  
5 72:20 to 73:8.

6 (Video played)

7 MR. CHIARELLO: Thanks, Mr. Yang.

8 Q. Mr. Breslow, did you understand that one of your  
9 responsibilities was to identify cloud-related design,  
10 development, or deployment friction points from the customer's  
11 perspectives and to rally your teams to work through solutions?

12 A. Sorry, could you repeat that.

13 Q. Sure. Did you understand that one of your responsibilities  
14 as managing director of technology and policy was to identify  
15 cloud-related design, development, or deployment friction  
16 points from the customer's perspective and to rally your teams  
17 to work through solutions?

18 A. Yes.

19 Q. Did you understand the function of your role that you were  
20 expected to work closely with the product engineering teams in  
21 GT and GPT?

22 A. I'm sorry. I didn't catch the two. In what? In G?

23 Q. GT and GPT.

24 A. I don't remember what those acronyms stand for. Sorry.

25 Q. OK.

NADHRow3

Breslow - Direct

1 A. The answer's probably yes. I just don't remember what  
2 those acronyms are.

3 Q. You don't have any reason to think that wasn't part of your  
4 role?

5 A. No, probably was.

6 Q. And the role, as you understood it, also included doing  
7 deep dives with internal engineering teams on key cases for a  
8 given launch, correct?

9 A. Yes.

10 Q. In your role did you understand that your responsibility  
11 included partnering closely with top global companies as their  
12 most-trusted Google technical adviser?

13 A. Absolutely.

14 Q. Was part of your responsibility to tell the Google  
15 innovation story and help translate it to actionable steps  
16 global companies can take towards adoption of the cloud?

17 A. Absolutely.

18 Q. And did you understand one of your responsibilities to be  
19 — to include public evangelism for emerging technologies and  
20 speaking publicly on those issues?

21 A. Absolutely.

22 Q. Now, Tariq Shaukat was your manager while you were employed  
23 at Google, correct?

24 A. Correct.

25 Q. And in your managing director of technology and policy

NADHRow3

Breslow - Direct

1 role, you met with Mr. Shaukat on a frequent basis, correct?

2 A. I think "frequent" is in the eye of the beholder, but, yes,  
3 we did meet a fair amount.

4 Q. And "frequent" is a word that you used in your deposition,  
5 correct?

6 A. If I did, I did. Deposition was a couple years ago.

7 Q. And you had a standing call with Mr. Shaukat every week or  
8 every other week?

9 A. Correct.

10 Q. And —

11 A. His name is pronounced Shaukat, not Shaukat.

12 Q. OK. I believe Mr. Shaukat used Shaukat, but appreciate the  
13 clarification.

14 If Mr. Shaukat could not keep a call with you, he  
15 would reschedule it relatively proximate to the scheduled time  
16 you were supposed to speak, is that right?

17 A. Depended, but generally, yes.

18 Q. And he was available to you and would speak to you whenever  
19 needed, correct?

20 A. Yes.

21 Q. He was always accessible to you?

22 A. Yes.

23 Q. And in addition to speaking with him, you also met with him  
24 in New York or California approximately every month or so,  
25 correct?

NADHRow3

Breslow - Direct

1 A. No. I'm assuming you mean in person in California or New  
2 York —

3 Q. Yes.

4 A. — as opposed to a videoconference?

5 Q. Correct. You would meet with him in person in either  
6 California or New York approximately every month to six weeks?

7 A. No.

8 MR. CHIARELLO: Mr. Yang, can we play for the jury  
9 89:10 — I'm sorry. Just give me one second. It's going to be  
10 86:15 to 87:4.

11 (Video played)

12 MR. CHIARELLO: Thank you, Mr. Yang.

13 Q. When you met with Mr. Shaukat person, you would meet for  
14 meals, correct? For breakfast, lunch, or dinner?

15 A. We met once in New York for breakfast, once in New York for  
16 lunch, and once in New York for dinner. We didn't meet in  
17 California for any of those meals.

18 Q. And Mr. Shaukat initiated those meetings with you, correct?

19 A. I don't recall whether he initiated them or I initiated  
20 them. They happened.

21 MR. CHIARELLO: Mr. Yang, can we put up  
22 Plaintiff's 72, please.

23 Q. Mr. Breslow, this is an email exchange between you and  
24 Mr. Shaukat between February 28, 2019, and March 1, 2019.

25 And, Mr. Yang, if we could take a look at the second

NADHRow3

Breslow - Direct

1 page.

2 In the email from you to Mr Shaukat — if we can just  
3 call out the top two lines there.

4 A. I'm sorry, you're talking about the middle of the page or  
5 sort of down the page?

6 MR. CHIARELLO: Mr. Yang, it's the February 28 at 5 —  
7 7:57.

8 A. OK. Got it.

9 Q. The first two lines there.

10 A. Thank you.

11 Q. And you write to Mr. Shaukat: "Great catching up with you  
12 over lunch yesterday. If only there were more hours in the day  
13 and we were in the same city, we could do it more often,"  
14 correct?

15 A. Correct.

16 Q. That's what you wrote him?

17 A. Yeah, I wrote that.

18 MR. CHIARELLO: And, Mr. Yang, can we call out the  
19 bottom two lines of that same email.

20 Q. You write to Mr. Shaukat: "Safe travels. I'm assuming  
21 you'll have high quality BBQ in KC and not froufrou steak  
22 frites as you were subjected to in New York yesterday,"  
23 correct?

24 A. I wrote that, yes.

25 Q. And is that the lunch you were catching up with him over

NADHRow3

Breslow - Direct

1 that you referenced at the beginning of the email?

2 A. I'm sorry. I'm confused. The first part was about the  
3 lunch I referenced. The second part, I don't know when — I do  
4 not recall that he had a steak at lunch.

5 Q. So the froufrou steak frites you had with him was a  
6 separate meal that you subjected him to the day prior?

7 A. He might have had a meal with someone else. I had one more  
8 meal with him. By the way, I'm a lacto-ovo-pesco vegetarian.  
9 I haven't had steak in 25 years.

10 Q. I see. So your testimony is the steak frites you were  
11 referring to is not a meal you had with him?

12 A. He may have had that meal. This was in 2019. It's four  
13 years later. I don't recall him eating steak at lunch, but  
14 maybe he had a steak at lunch. Maybe he had a steak later in  
15 the day with someone else. I don't recall.

16 MR. CHIARELLO: OK. Mr. Yang, you can take that down.

17 Q. Now, Mr. Breslow, in December of 2018, Mr. Shaukat made you  
18 the head of financial — head of the financial services  
19 vertical, correct?

20 A. I'm sorry, the time frame was what? December of 2018, is  
21 that what you said?

22 Q. Yes.

23 A. I don't recall the precise time, but in that time period.

24 Q. And the responsibilities for the head of financial services  
25 role included driving Google's business by developing product

NADHRow3

Breslow - Direct

1 solutions for cloud, correct?

2 A. Correct.

3 Q. And it also involved you working with engineering to  
4 develop products related to financial services and to find ways  
5 to bring financial services providers to Google Cloud?

6 A. Yes.

7 Q. Is that correct?

8 Mr. Breslow, you hadn't expected to be considered for  
9 this role, correct?

10 A. Yes.

11 Q. And you never asked to be considered for the role, correct?

12 A. Yes.

13 Q. And no one interviewed you for the role, correct?

14 A. Correct.

15 Q. And you spoke to Mr. Shaukat and he just gave you the role,  
16 correct?

17 A. No. He asked me — he said to me that with the arrival of  
18 a new CEO for Google Cloud, the role had been open for a while.  
19 And it was a time when, as the organization might be in  
20 transition, would I consider taking on that role while the  
21 organization sorted itself out? And so I said, if that's what  
22 you think is an appropriate role for me, I'm happy to take it  
23 on.

24 MR. CHIARELLO: Nothing further.

25 CROSS-EXAMINATION



NADHRow3

Breslow - Cross

1 BY MR. GAGE:

2 Q. Good morning, Mr. Breslow. It is still morning for a few  
3 more.

4 Mr. Breslow, you were shown a short while ago  
5 Plaintiff's Exhibit 37, and we don't need to put it up on the  
6 screen. It was your offer letter. Do you remember that?

7 A. Correct.

8 Q. You were asked about a stock award. Do you remember that?

9 A. Yes, I was.

10 Q. Did that stock award vest over time?

11 A. Yeah, it vested 1/48. It was a four-year stock award, 1/48  
12 each month for 48 months.

13 Q. When you left Google, did you forfeit any of the stock that  
14 you had been granted by Google?

15 A. \$2 million worth.

16 Q. So you never saw the full value of that initial award,  
17 correct?

18 A. That would be correct.

19 Q. I want to take a step back so the jury can understand a  
20 little bit more about your background.

21 Where are you from, by the way?

22 A. So I am a native New Yorker, born and bred in Queens. Went  
23 to Queens P.S. 26, J.H.S. 216, and the Bronx High School of  
24 Science.

25 Q. And what's your educational background?

NADHRow3

Breslow - Cross

1 A. So after Bronx Science, I went to Princeton, graduated  
2 Princeton in three years. I majored in public and  
3 international affairs. And then I went to Columbia Law School,  
4 and I have a JD from Columbia Law School.

5 Q. In what year did you graduate from law school?

6 A. I graduated in 1981.

7 Q. Mr. Chiarello asked you about your time at Morgan Stanley.  
8 You started there as a lawyer in litigation?

9 A. Correct.

10 Q. And at the time you left, what was your role at Morgan  
11 Stanley?

12 A. So I was — the very last job I had was, I was advising the  
13 chief legal officer for a year because I had a garden leave  
14 period. Before that, for most of my term at Morgan Stanley, I  
15 was chief compliance officer of the company. At the time I  
16 stopped filling that role, we had a thousand people in the  
17 group. I was on the management committee of the firm, the  
18 firm's risk committee. I was on the firm's franchise  
19 committee, and I was also on the firm's culture, values, and  
20 conduct committee. So very senior role at the firm.

21 Q. Tell the ladies and gentlemen of the jury what it actually  
22 means to be on the management committee. What's the management  
23 committee?

24 A. So Morgan Stanley at that time had about 55,000 employees.  
25 There were 40 of us on the management committee who were

NADHRow3

Breslow - Cross

1 responsible for the overall organization of the company. And  
2 the management committee was convened — I don't remember the  
3 frequency. It was frequent, but it was convened by the CEO of  
4 the company.

5 Q. Now, I think Mr. Chiarello made a reference to the fact  
6 that you had two stints as chief compliance officer at Morgan  
7 Stanley. Can you explain why you had two stints in that role.

8 A. Yes. So I became chief compliance officer at Morgan  
9 Stanley in 1995. In 1997, Morgan Stanley merged with a company  
10 called Dean Witter Discover. Many of you may know Discover  
11 Card. And it was not — and I became chief compliance officer  
12 of Morgan Stanley, Dean Witter Discover. It was not a happy  
13 merger between the two companies.

14 In 2000, the guy who was president of Morgan Stanley,  
15 a guy named John Mack, left. A year later he surfaced at  
16 Credit Suisse First Boston as the CEO of Credit Suisse First  
17 Boston. And on a combination of challenges I had with the  
18 leadership at Morgan Stanley and my desire to work with John  
19 and other leaders at Credit Suisse First Boston, I left and  
20 became chief compliance officer at Credit Suisse First Boston.  
21 That lasted four years. And in 2005, John returned to Morgan  
22 Stanley as the chief executive officer of Morgan Stanley, and  
23 on his first day back, he called me and asked if I wanted to  
24 return to Morgan Stanley. And I said yes, and I returned to  
25 Morgan Stanley as chief compliance officer.

NADHRow3

Breslow - Cross

1 Q. Thank you.

2 Mr. Chiarello also made a couple of points or asked  
3 you a couple of questions about the — your absence of any  
4 formal training in technology. You remember that?

5 A. I do.

6 Q. As chief compliance officer at Morgan Stanley, what exactly  
7 were your responsibilities that related to technology at Morgan  
8 Stanley?

9 A. So there were twofold. The one that I think is most  
10 relevant is there are — at its height there were a 1,000  
11 employees in the compliance department, and there were over  
12 55,000 employees at the firm. In order for us to do our jobs  
13 effectively, we had to use technology. And so, basically, when  
14 I returned to Morgan Stanley in 2005, the technology  
15 infrastructure for compliance had been materially degraded  
16 while in my absence. So we came up with a five-year roadmap  
17 for the rebuilding of the compliance technology infrastructure  
18 at Morgan Stanley. It comprehended all the firm's businesses,  
19 all the firm's geographies, and at times I had as many as 250  
20 technologists working, supporting my group.

21 I met with the senior technology person every week. I  
22 provided the strategic direction to them. I also reviewed all  
23 kinds of business requirements, documents. I was involved in  
24 tactical execution of programs. But for this to — for  
25 compliance to succeed, I needed to have technology. I also had

NADHRow3

Breslow - Cross

1 a group working with me in the compliance department of about a  
2 half dozen people who covered technology, and I met with them  
3 every week as well to make sure we stayed on course for a very  
4 large rebuild of the infrastructure.

5 (Continued on next page)

NADVROW4

Breslow - Cross

1 BY MR. GAGE:

2 Q. Thank you. I want to pivot to your joining Google.

3 Did you know Tariq Shaukat before you came to Google?

4 A. I did not.

5 MR. GAGE: I'd like to show the witness, your Honor,  
6 D-40. This has been shown before.

7 Q. Mr. Breslow, if you could just take a look at this. Is  
8 this the announcement of your arrival at Google?

9 A. Yes.

10 Q. And --

11 THE COURT: Mr. Gage, this was subject to an  
12 instruction; is that right?

13 MR. GAGE: Yes.

14 THE COURT: This document.

15 MR. GAGE: Yes.

16 THE COURT: Okay. I'm just going to remind the jury  
17 that there was an instruction about this document. You're  
18 shaking your heads yes.

19 Okay. Go ahead.

20 MR. GAGE: Jean, could you just focus on -- yes, that  
21 paragraph right there. And bring it out so that -- that is  
22 much easier.

23 THE WITNESS: Thank you.

24 Q. Mr. Breslow, can you take a look at this.

25 Does this, to the best of your recollection,

NADVROW4

Breslow - Cross

1 accurately describe the job that you agreed to do at Google?

2 A. Yes.

3 MR. GAGE: You can take that down, Jean.

4 Q. There was some testimony yesterday about an individual  
5 named Ruth Porat. Do you know Ruth Porat?

6 A. Yes. So Ruth Porat, I think her current title is she's  
7 president of Google -- or Alphabet, rather. She was the chief  
8 financial officer of Alphabet before that. But also she worked  
9 at Morgan Stanley.

10 We started working together in either 1988 or 1989,  
11 when we were both associates at Morgan Stanley. And we had a  
12 long relationship, and I knew her through the management  
13 committee as well.

14 Q. I want to talk just a little bit about the actual -- the  
15 work that you actually did while you were at Google.

16 Did you work on any projects related to anti-money  
17 laundering?

18 A. I did. That was one of the primary focuses that we had.

19 Q. And can you describe for us the work that you did in the  
20 area of anti-money laundering at Google.

21 A. So at Google, in order to get traction in the organization,  
22 you had to be addressing a big problem. And financial crime is  
23 a big problem. There is probably trillions of dollars a year  
24 of money laundering that occurs in the financial system. And  
25 financial services providers spend billions of dollars not

NADVROW4

Breslow - Cross

1 finding it.

2 And the way regulators look at financial crime is  
3 there's a couple of technologies that are very rule-based. And  
4 they say if you do this, then -- if this activity occurs in  
5 your account, we'll see that activity and we'll flag it. And  
6 then you can follow up and figure out whether it's money  
7 laundering.

8 And so what happens is the primary systems that exist  
9 right now basically create now about almost 100 percent false  
10 positives, because I somewhat improvidently said at a Google  
11 conference that was recorded that only stupid crooks get caught  
12 by the current anti-money laundering systems. Because if you  
13 know exactly what they are looking for, it's pretty easy to  
14 figure out what not to do. Don't put the money in today and  
15 take it out tomorrow; put it in today and take it out five days  
16 later.

17 So what we wanted to do at Google was to say, Let's  
18 take -- and it had two -- two imperatives at Google. One was  
19 in order to engage engineers and thought leaders, it had to be  
20 a big problem. But also, like, why would this matter for  
21 Google Cloud? The idea was when you looked at money laundering  
22 and trying to identify money laundering, it was probably the  
23 largest data -- the largest data set that banks have. It  
24 involves transactions, it involves customer information, it  
25 involves positions at the bank. And so the idea was it would



NADVROW4

Breslow - Cross

1 be a center of gravity to bring data into the bank from the  
2 bank's -- from Google's banking customers.

3 And ultimately, the idea as well was if you think  
4 about money laundering, money laundering is really the movement  
5 of money through the financial system; it's from one bank to  
6 another. And it's almost a bit of a fool's errand in trying to  
7 find money laundering within any single bank; because the whole  
8 idea is you're putting it in one bank and route it to another  
9 bank.

10 So the idea too was to get enough of a critical mass  
11 of banks and find a way to anonymize data between the banks so  
12 you could actually look for activity as it moved from one bank  
13 to another and then try and trace it through the financial  
14 system. And so rather than looking for these rules-based  
15 things, which are, Did you put \$10,000 in today and take  
16 \$10,000 out tomorrow, it was looking for much more  
17 sophisticated patterns of behavior. And that was a very  
18 interesting problem to Google engineers and it was a very  
19 interesting problem to solve for Google's customers. And I'd  
20 had long experience with this.

21 And in addition, when Thomas Kurian came to Google  
22 Cloud, one of the two major products was a product that was  
23 owned by Oracle, where he had come from; so a product called  
24 Mantas, M-A-N-T-A-S. And when we went to talk to him about  
25 what we were up to in the financial services group, we talked

NADVROW4

Breslow - Cross

1 about that. And he knew that Mantas was a failed product. And  
2 he knew that this would be a real opportunity for Google Cloud,  
3 if we could get it -- if we get it done right. So he was -- he  
4 was both feet in on that as an idea for something we would do.

5 Q. Were you what's called an executive sponsor of that project  
6 at Google?

7 A. Yeah, I was the executive sponsor.

8 Q. Can you tell the ladies and gentlemen of the jury what it  
9 means to be the executive sponsor of a project at Google?

10 A. Sure. So Google is a world unto itself, which you might or  
11 might not imagine from the outside looking in. But part of  
12 being executive sponsor was, one, I became the champion for a  
13 given product, in this case, the financial crime products. But  
14 there were others as well; we can talk about those separately,  
15 if Mr. Gage asks.

16 But then, in addition, as executive sponsor, I was the  
17 point of contact for the potential customers, particularly, in  
18 this case, HSBC Bank. But then there were also other customers  
19 that were considering how to enhance their own financial crimes  
20 profiles and programs. And it was also connecting the dots  
21 within Google and making sure there were resources aligned to  
22 the project and serving as a champion for it in the  
23 organization.

24 Q. And in that capacity, did you work with Google engineers?

25 A. I did.

NADVROW4

Breslow - Cross

1 Q. Did you work with Google product managers?

2 A. I did.

3 Q. Did you work with anyone else?

4 A. Well, on the team there were people -- on the financial  
5 services team there were people who had direct responsibility  
6 for the product, so I worked with them as well.

7 Q. By the way, when did you leave Google?

8 A. I left Google in July of '20.

9 Q. And have you ever heard of what came of that project?

10 A. Yeah. There was an announcement probably three, four  
11 months ago that HSBC had adopted -- had gone live on this  
12 product.

13 Q. Did you work on any projects while you were at Google with  
14 Ruth Porat?

15 A. I did. So a couple different -- well, a couple different  
16 things. So again, my role was as in the -- either as  
17 technology and policy for Cloud or for the financial services  
18 vertical. But at some point in time, the guy who was chief  
19 compliance officer at Google Pay, gPay, left, and left very  
20 suddenly.

21 And Ruth called me on a Friday night and said, I'm  
22 concerned about that. I want to make sure we have good  
23 controls in place. Can you help us think through how we might  
24 evaluate the state of compliance in the gPay business, and also  
25 help us in terms of identifying a consultant who might help us,

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Breslow - Cross

1 and also, if you can do this, to replace that person.

2 In addition, maybe not surprisingly, Google did not  
3 have a chief risk officer and didn't really have a risk  
4 management -- a formal risk management program. And so there  
5 was an internal consulting group that had been charged with  
6 figuring out what the contours of that looked like. And Ruth  
7 said to me, Could you please support them as well.

8 And so I probably met with them a couple of times a  
9 month for about a year to talk about what the contours of good  
10 look like from a risk management perspective. Because in  
11 between Morgan Stanley and Google, I also worked as a partner  
12 at McKinsey, which is a management consulting firm. And so I  
13 had broad exposure to what good looked like in terms of risk  
14 management.

15 Q. Thank you.

16 Mr. Chiarello asked you some questions about your  
17 conversations with Mr. Shaukat in which you agreed to take on  
18 the responsibility for financial services.

19 How long did you -- at that time, how long did you  
20 expect to be in that role?

21 A. I expected to be in that role until things -- well, two  
22 different ways to look at it. One was maybe somewhat  
23 politically incorrectly. I was in my 60s when I went to work  
24 at Google. I didn't expect to be working at Google much past  
25 about 65. So that was one limiter on what I thought my time in

NADVROW4

Breslow - Cross

1 the role would be.

2 The second was it wasn't clear what Thomas Kurian had  
3 in mind for organizational structure. So in that period, I  
4 felt comfortable filling the role while it was being sorted as  
5 to what was, in fact, the overall organizational design of  
6 Google Cloud would look like.

7 Q. By the way, just one last question on the anti-money  
8 laundering work that you did there. Did Ms. Rowe ever work  
9 with you on the anti-money laundering project that you recall?

10 A. Not that I recall, no.

11 Q. Did she ever offer to assist on it that you recall?

12 A. Not that I recall.

13 Q. Since we're talking about Ms. Rowe, did you ever have any  
14 conversations with Ms. Rowe about how long you planned to be in  
15 that interim role over financial services?

16 A. I talked to her about the idea that I really didn't view  
17 this -- I viewed her as someone who could succeed me in that  
18 role. I really didn't view it as something that I was going to  
19 be doing for a prolonged period of time; and that when -- when  
20 things developed, that she would certainly be a credible  
21 candidate; and that I thought that it would be good for us to  
22 work together; and that she -- you know, I spent a lot of my  
23 time as an executive. And some of the things that I thought we  
24 could work on together were things around, you know, what it  
25 means to be a senior executive, you know, promoting programs

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Breslow - Redirect

1 and stuff like that.

2 Q. And how did she react, if you recall?

3 A. She said -- the conversation lasted a couple minutes and  
4 she didn't say much in response. And then she left the group.

5 Q. Were you disappointed when she left the group?

6 A. Yeah.

7 Q. Why?

8 A. Because I thought she -- I had seen her around; I had seen  
9 her make presentations in group settings. I thought she was  
10 very articulate, very fluent. I thought she understood -- she  
11 had more of a technology background than I did. I thought she  
12 could -- I've always worked with people who had complimentary  
13 skills to mine. I thought she would be a good compliment to my  
14 skill set, and I thought it would really be a lot of fun to  
15 work with her.

16 MR. GAGE: Give me one second, your Honor.

17 I have no further questions, your Honor.

18 MR. CHIARELLO: Just some redirect, your Honor.

19 REDIRECT EXAMINATION

20 BY MR. CHIARELLO:

21 Q. Mr. Breslow, you recall your testimony a few moments ago  
22 concerning anti-money laundering projects that you had worked  
23 on?

24 A. Yes.

25 Q. Approximately how many developers did Google assign to that

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Breslow - Redirect

1 project?

2 A. Well, I left -- I left Google in July of '20. It took  
3 until sometime in '23 for it to come to fruition. I don't know  
4 ultimately how many developers were working on it.

5 Q. But it was about a handful, not a lot; correct?

6 A. I don't know.

7 Q. You don't know if any developers were working on it?

8 A. Well, I assume developers had to be working on it in order  
9 for it to come to fruition, but I don't know how many there  
10 were.

11 Q. You had some testimony about your time at Morgan Stanley  
12 that you would -- and correct me if I'm misstating, but meet  
13 with folks in technology as part of your role?

14 A. Correct.

15 Q. Those technology individuals you met with didn't report to  
16 you; correct? They reported to IT?

17 A. Correct.

18 Q. And just a point of clarification. So you were the chief  
19 compliance officer at Morgan Stanley. Did they also have a  
20 chief technology officer?

21 A. Yeah, they did. But I was an important part of their  
22 compensation, promotion, hiring. The chief technology -- I had  
23 a managing director in the IT group who worked -- who I met  
24 with every week who we discussed the technology roadmap we had  
25 for compliance. And so when his -- first it was a woman, then

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Grannis - Direct

1 it was a man. And each time I was a key voice in their hiring,  
2 firing, promotion, staffing, budget, etc.

3 Q. There was also a chief technology officer at Morgan  
4 Stanley; correct?

5 A. Yeah.

6 Q. That was not you?

7 A. Right.

8 MR. CHIARELLO: Nothing further.

9 MR. GAGE: I have no additional questions, Judge.

10 THE COURT: Okay. Thank you, Mr. Breslow.

11 You are excused.

12 THE WITNESS: Thank you.

13 (Witness excused)

14 THE COURT: Okay. Next.

15 MS. GREENE: The next witness that plaintiff calls is  
16 Will Grannis.

17 THE COURT: For your planning purposes, I was going to  
18 break for lunch at 1.

19 MS. GREENE: I was going to ask. Thank you.

20 THE COURT: Okay.

21 WILLIAM GRANNIS,

22 called as a witness by the Plaintiff,

23 having been duly sworn, testified as follows:

24 DIRECT EXAMINATION

25 BY MS. GREENE:



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Grannis - Direct

1 Q. Hello, Mr. Grannis.

2 A. Hello.

3 Q. You are responsible for hiring the technical directors into  
4 OCTO in the 2016/2017 time frame; correct?

5 A. Correct.

6 Q. And between late September 2016 and mid April 2017, you  
7 hired nine people into that technical director position in  
8 OCTO; correct?

9 A. I'd have to look at the data, but that generally sounds  
10 correct in terms of volume.

11 Q. Okay. Let me go through and you can tell me if this sounds  
12 about right in terms of who came in at what point in time.

13 Mr. Eryurek, he was the first that was hired; correct?

14 A. He was the first external hire. We had roughly 17 people  
15 that we had hired by December of 2016, and then Evren was the  
16 first external hire.

17 Q. Of the 17, were any of them levels 8 or 9?

18 A. Yes.

19 Q. And who was that?

20 A. Off the top of my head, Jamie Herbs was a technical  
21 director. She came from another part of Google.

22 Q. What was her level?

23 A. 8.

24 Q. And when did she join OCTO?

25 A. She was the second hire. First hire was Solomon Boulos.

NADVROW4

Grannis - Direct

1 Q. She joined your organization as a Level 8; correct?

2 A. Yes.

3 Q. Okay. So Mr. Eryurek was the first person you hired at the  
4 technical director Level 8/Level 9 role; correct?

5 A. Externally, yes.

6 Q. And -- well, do you hire someone if they are already  
7 working at Google or is it just they transfer into your  
8 organization?

9 A. There's a hiring process. Everybody goes through a  
10 process, whether it's external or internal.

11 Q. Okay. And that's the interview process?

12 A. Yes.

13 Q. Okay. So you hired Mr. Eryurek in September 2016, does  
14 that sound about right?

15 A. Sounds about right, yeah.

16 Q. And you hired Mr. Penberthy around December 5th, 2016;  
17 correct?

18 A. That sounds about right in terms of timing. I don't  
19 remember all the dates.

20 Q. Approximately December 9th, 2016, was when you made an  
21 offer to Ms. Rowe?

22 A. That sounds about right.

23 Q. Okay. In that same month, in December of 2016, was when an  
24 offer was made to Paul Strong?

25 A. Sounds about right.

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Grannis - Direct

1 Q. And in January, offers were made to Ben Wilson, Jen  
2 Bennett, Brian Steikes, and Jonathan Donaldson. Does that  
3 sound about right?

4 A. Yeah, sounds right.

5 Q. And then Nick Harteau joined in early April 2017, is that  
6 right?

7 A. Yeah, sounds about right.

8 Q. And all of those nine were hired into OCTO; correct?

9 A. Yes.

10 Q. And they were all hired using the same job description?

11 A. Yes.

12 Q. And that job with description and the role itself outlined  
13 what's generally been referred to as three different pillars;  
14 correct?

15 A. That's correct, yeah.

16 Q. For the record, what are those pillars?

17 A. Sure. The first pillar is customer impact, customer  
18 expertise. This really manifested mostly as vertical expertise  
19 in the early going.

20 Second bucket was engineering expertise, so deep  
21 technical expertise in a field, such as AI or infrastructure.

22 And then the third was the evangelism, sharing what we  
23 know and what we learn with the broad audiences.

24 Q. And together with evangelism, that also included thought  
25 leadership as a third pillar; correct?

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Grannis - Direct

1 A. Yes, thought leadership, blogs, videos, conference  
2 attendance, things like that.

3 Q. Okay. Now, all of the nine individuals that we just  
4 discussed, they all reported to you; correct?

5 A. Correct.

6 Q. And they all had the same responsibilities?

7 A. Generally, all three were -- all three buckets were part of  
8 their job responsibilities, but we certainly had higher  
9 expectations or expectations that were level appropriate.

10 Because at that time, I mean, when we got to about  
11 April, May, June, a year in, we had 30 people in the team that  
12 ranged from Level 5, 6, 7, 8, and 9. So, of course, we would  
13 have different expectations of Level 9 in terms of the impact  
14 that they were able to create and their experience and  
15 expertise than we would for a Level 6 or a 7 or Level 8.

16 Q. Between Level 8 and Level 9, prior to April/May 2017, you  
17 didn't really know what the difference was between those two,  
18 right? You were still sorting out that?

19 A. Yeah. What we had done is we had adopted -- it's a job  
20 family. It's like a description of work to be done in our HR  
21 system; so like a software engineer has a job family, or a  
22 salesperson has like a job family. And it codifies their  
23 responsibilities.

24 OCTO is an entirety new function. So we were just  
25 trying to figure out, candidly, how adopting a job family from

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Grannis - Direct

1 one part of Google and bringing it over into engineering, how  
2 that would even work. And so, yeah, at the time that we were  
3 hiring, we had not yet hired and observed people in action, you  
4 know, over a long period of time, to be able to go back and  
5 update that ladder or that job family very specifically. So we  
6 used one centralized role and then, based on experience,  
7 expertise, likelihood to create, you know, impact across one or  
8 multiple pillars, that's really what we were looking for in the  
9 hiring process.

10 Q. Okay. So when you were hiring during that time frame, you  
11 did not have a job ladder that had been adopted for OCTO;  
12 correct?

13 A. We had a job ladder, but it only had one entry, because  
14 again, we didn't know -- we didn't have the context for, you  
15 know, should we have five levels, should we have four, should  
16 we have three, should we have two.

17 Q. That was still being developed?

18 A. Absolutely.

19 Q. Now, I'm going to focus again on those nine people that  
20 came in that time period. They all had generally the same  
21 skill sets; correct?

22 A. That's not correct.

23 Q. Well, didn't they all need to have similar skill sets to be  
24 able to meet the three pillars?

25 A. Well, I don't want to conflate job responsibilities and

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Grannis - Direct

1 skills and expertise that someone has coming in the door.

2 Because those can be two different things, and I'll give you an  
3 example.

4 Scott Penberthy, he is a Ph.D. in computer science and  
5 a deep AI expert, world expert in AI.

6 Let's see. Ben Wilson came from the energy sector and  
7 was a world expert in application migration; led the first  
8 migration of many applications, I think, at GE, like hundreds  
9 of applications at GE into the public cloud. I think he's  
10 still a reference for Amazon, as a matter of fact, which is  
11 ironic.

12 So they all had these different backgrounds and  
13 expertise.

14 And the composition of the team from the very  
15 beginning, when we first envisioned it, was we would hire  
16 people with a broad range of experience expertise, you know,  
17 this kind of diverse skill set of we need people in AI, we need  
18 people in networking, we need people in storage, we need people  
19 who understand financial services, we need people who  
20 understand energy, we need people who understand media and  
21 telco.

22 So by definition, we were hiring people with  
23 dissimilar backgrounds and expertise. When they came to the  
24 team, over time they were expected to perform across those  
25 three pillars of impact.

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Grannis - Direct

1 Q. Okay. I'm going to ask you a yes-or-no question.

2 A. Okay.

3 Q. Each of the candidates that were hired into the role at  
4 that time needed to have similar skill sets to be able to meet  
5 those three pillars; correct?

6 A. No.

7 Q. Okay. Let's go to your deposition. Do you recall having  
8 sat for your deposition --

9 (Indiscernible crosstalk)

10 A. Recall sitting through a deposition, yes.

11 MS. GREENE: Okay. Let's go to 50, page 50, lines 18  
12 through 23. Page 50, lines 18 through 23.

13 And go ahead, Mr. Yang.

14 (Video played)

15 Q. Okay. There was an objection, but your answer there at  
16 your deposition was yes; correct?

17 A. That was, yeah.

18 Q. And that was the testimony that you gave under oath at your  
19 deposition?

20 A. It was.

21 Q. Now, you used the same interview questions with each of  
22 those nine candidates during that time; correct?

23 A. Yes.

24 Q. And if we can, let's go to Plaintiff's Exhibit 93. This is  
25 the L8 assessment -- L8 plus assessment-based interview

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Grannis - Direct

1 questions that were used for the hiring of those technical  
2 directors into OCTO; correct?

3 A. Yes. These would have been similar across all candidates.

4 Q. Okay.

5 MS. GREENE: And if we can just go to the next page,  
6 as well, Mr. Yang. And then to the final page for the jury.

7 Q. So this included leadership questions, Googliness  
8 questions, and GCA questions; correct?

9 A. Correct.

10 Q. And what is GCA?

11 A. It's general cognitive ability.

12 Q. Okay. And so these types of questions, leadership,  
13 Googliness, GCA, those are pretty standard for at the L8 plus  
14 level; correct? I mean, in other words, leadership,  
15 Googliness, and GCA are something that's asked of all  
16 senior-level candidates across Google; correct?

17 A. They are the same categories.

18 Q. Okay. And if we go to the first page, this is L8 plus;  
19 correct? There weren't a separate set of questions for L8 and  
20 a separate set of questions for L9?

21 A. No. L8 plus, I think at the time these would have been  
22 relevant to L8, L9, that's why it has the plus after it.

23 Q. Now, each of those nine were all hired for the same role;  
24 correct?

25 A. The technical director role, yeah.



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Grannis - Direct

1 Q. And it's definitely true that everyone was being hired for  
2 the same role, technical director solutions; correct? Of those  
3 nine?

4 A. Of the people you mentioned, yes. We did have different  
5 roles. We had some ops roles; we had, like, executive support,  
6 things like that.

7 Q. The technical director position, it was scoped for between  
8 Level 8 and Level 9; correct?

9 A. Correct.

10 Q. And the job ladder that you were developing didn't go  
11 beyond Level 8; correct? At that time?

12 A. At the time, correct.

13 Q. And, in fact, at that time, again, the late 2016/early 2017  
14 period, there was less definition in the job ladder at those  
15 higher levels; correct?

16 A. Yeah. We'd been operating for a year-ish, so certainly  
17 still learning; in fact, we still are.

18 Q. Now, if it we can go to Plaintiff's Exhibit 8. And this is  
19 email that you're copied on from August 28th, 2017; correct?

20 A. Yeah.

21 Q. And it's from Melissa Lawrence, who was your HR lead in  
22 OCTO for OCTO; correct?

23 A. Yes.

24 Q. And those names that are mentioned here, those were the  
25 technical directors in OCTO; correct?

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1 A. Yes.

2 Q. Okay. And if we can pull out Ms. Lawrence's email, "Hi  
3 all," through her signature.

4 She says: One of you asked, but for the benefit of  
5 all, there is very little documented for L8 plus expectations  
6 at Google for general leveling. This is the best guide  
7 available for generic engineering.

8 Was OCTO generic engineering?

9 A. Yes.

10 Q. Did it have an engineering component?

11 A. Yes.

12 Q. Was it limited to just an engineering component; correct?

13 A. Well, we were in the engineering hierarchy, so that's what  
14 these job families are tied to. So like we have a sales  
15 hierarchy, and there are job families that tie to a sales  
16 hierarchy. And there's an engineering hierarchy, and there are  
17 job roles -- this was specifically actually taken -- this job  
18 family originally existed in go-to-market, which is kind of  
19 like sales and marketing. And it was brought to engineering to  
20 focus on engineering. So it was primarily engineering.

21 Q. OCTO had not adopted an engineering leveling guide or job  
22 ladder for itself at that point in time; correct?

23 A. Correct.

24 MS. GREENE: Okay. We can take that down.

25 Q. You, yourself, in this time frame did not have a great

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Grannis - Direct

1 distinction between Levels 8 and 9; isn't that right?

2 A. I don't know what you mean by I didn't have a great  
3 distinction between them.

4 Q. You really weren't sure what distinguished a Level 8 from a  
5 Level 9 during this time frame; correct?

6 A. We certainly had a hypothesis in that we were testing it  
7 based on the candidates that we -- that we were interviewing.  
8 So we had an initial sense of it and then we were testing it  
9 all along.

10 Q. Well, early on, during this time frame that we're talking  
11 about, you didn't have a super strong sense of what  
12 distinguished a Level 8 and a Level 9; correct?

13 MR. GAGE: Objection. Vague, your Honor.

14 THE COURT: Sustained.

15 Q. Mr. Grannis, do you recall being interviewed by employee  
16 relations at Google in connection with this matter?

17 A. Yes. Maybe. I think. It's been a long -- it's been a  
18 long time, so probably.

19 Q. You're not sure if you were interviewed or not?

20 A. By employee relations specifically related to this,  
21 probably.

22 Q. Do you recall meeting with Ashley Tessier and having two  
23 people there and them taking notes?

24 A. Oh, yeah, that sounds familiar, yeah.

25 Q. That was "yeah"; correct?

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1 A. Sorry. Just trying to be very clear, yes.

2 Q. Do you recall telling them that you were trying to remember  
3 the exact sequence of hires; eight to nine people got hired  
4 right in a cluster of months. They came in at multiple levels.  
5 People were sharing openly about a level and there was high  
6 frustration around her level. That was Ms. Rowe that you're  
7 referring to; correct?

8 A. I don't remember if it was her -- if it was just limited to  
9 Ms. Rowe. I think that there's always been -- I mean, we're a  
10 very transparent culture, and so people share their levels  
11 pretty openly with each other. So I don't know if it was  
12 referring specifically to Ms. Rowe, if there were multiple  
13 people that had asked about it or were talking about it.  
14 Sorry, I just don't remember the exact context of that exact  
15 comment from that conversation.

16 Q. Well, do you recall -- let me ask you, were people told  
17 their levels when they came into OCTO?

18 A. They would have to know their level when they came into  
19 OCTO.

20 Q. Do you know if the recruiters told them what their level  
21 would be?

22 A. I'm not -- I have no idea about the exact conversations  
23 that every recruiter had with every single person coming into  
24 OCTO.

25 Q. Do you know if HR told people what their levels would be?

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Grannis - Direct

1 A. I don't know. I imagine it would show up. When you show  
2 up, there's a job code that's assigned to you, so they would  
3 know.

4 Q. Are people told what their job codes are and how that  
5 corresponds to a level?

6 A. Again, I can't -- I can only speak from, you know,  
7 experience. I certainly was told mine coming in.

8 Q. Is the level put in an offer letter?

9 A. I don't know. I'd have to -- I'd have to see. I don't  
10 think it is.

11 Q. Is it possible that the directors that you were hiring  
12 during that time frame, in fact, did not know what their levels  
13 were?

14 MR. GAGE: Objection.

15 Q. At the time they were hired.

16 MR. GAGE: Objection to "possible," your Honor. Not  
17 relevant.

18 THE COURT: I'll allow it.

19 A. So the question is was it possible that someone didn't know  
20 their level at hire?

21 Q. Correct.

22 A. I'd find that highly unlikely. I mean --

23 Q. Do you recall ER asking you what was your assessment of her  
24 level at the time, and you said, No assessment. Do you recall  
25 that?

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1 A. I didn't do a level assessment explicitly. The process,  
2 the way it worked, is recruiting would find a candidate. They  
3 would have initial hypothesis about leveling. And then they  
4 would go through an interview panel. Purpose of the panel was  
5 to determine, you know, is this person qualified -- you already  
6 mentioned the questions -- and to look for any disconnects.

7 Then I'd review it. We'd go through the packet and  
8 the results. And then, you know, there was a -- there was a  
9 third step, which is after I'd reviewed it and provided a  
10 statement of support or gone back and asked more questions, if  
11 there was a disconnect, there was at the time a SVP review,  
12 which was our form of a hiring committee. Because everybody  
13 was so senior coming in, our hiring committee was a couple of  
14 SVPs, we didn't know who they were. But we'd submit the  
15 results, they'd review them for consistency or anything that  
16 caught their eye. And if it was a go, it was a go; and if it  
17 wasn't, then we'd have to redo it.

18 Q. So who made the decision to level Ms. Rowe as an 8?

19 A. Well, I guess that expectation was initially set when it  
20 came to us from recruiting. And throughout the hiring process  
21 there was nothing that indicated it should be different.

22 Q. But it wasn't you who made the decision Ms. Rowe is going  
23 to be an 8, Mr. Eryurek is going to be 9, Mr. Wilson is going  
24 to be a 9; is that your testimony?

25 A. No, my role was to validate or invalidate the initial

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1 hypothesis of where that person's level should be based on the  
2 evidence presented in the interview panel.

3 Q. And you don't know what criteria the initial hypothesis was  
4 based on, do you?

5 A. Well, the initial hypothesis was ours, was mine; it was  
6 part of the design. So I -- absolutely I knew what the  
7 original hypothesis was, whether someone would likely be an L9  
8 or an L8.

9 Q. I'm sorry, a different question.

10 The recruiter who was making that initial assessment,  
11 you didn't know what they were considering or valued or  
12 weighting or anything else when you got the assessment, right?  
13 They just gave the assessment to you. Did you have a  
14 conversation with them?

15 A. Well, when we first started OCTO, one of the things that we  
16 did is we built a job description. And the recruiters really  
17 wanted to understand that job description, they want to  
18 understand what we were looking for. And so they wanted to  
19 be -- they wanted to be knowledgeable so that the people that  
20 they're bringing to us would be the right type of people they  
21 are looking for.

22 So I mean, absolutely there were conversations between  
23 recruiting, myself. You know, we really wanted to make sure we  
24 got it right.

25 Q. Well, that question ER asked you, what was your assessment

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1 of her level at the time, you said no assessment.

2 Do you also recall saying: All of our hires in OCTO  
3 early on in building the function didn't have a super strong  
4 sense, didn't know Level 8s from 9s; didn't say we are only  
5 going to hire 8s, etc., take a person's qualifications and  
6 skills and run through the process, and then have a  
7 recommendation on the other side. Didn't have any preconceived  
8 notions about level; had only been at Google at the time for  
9 one year; didn't have a straight super-calibrated reference  
10 frame.

11 Do you recall in sum or substance saying that to ER?  
12 A. I think it's absolutely fair to say that, because we had  
13 not -- we hadn't hired a bunch of people; this was a brand-new  
14 ladder. It was a new function within engineering. We  
15 absolutely couldn't be super confident in all aspects.

16 But as we started hiring people, especially when we  
17 were getting to that stage, I mean, we had already had 17, 18,  
18 19, 20 people by the time we were hiring most of the external  
19 candidates. We definitely started to see -- we started to  
20 learn a little bit more about what we were looking for.

21 So for example, when we first started, we didn't know  
22 what the balance or how we would think about impact for someone  
23 coming in. Would they have more impact or the ability to  
24 create, like, stronger impact early on if they were a little  
25 more on the engineering side, or are they a little bit more on



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1 the customer side. We didn't know that.

2 But it certainly became clear, you know, six months,  
3 five months, six months in, attributes that would make someone  
4 more effective or less effective.

5 Q. The people who joined you from internal -- internally in  
6 Google, their levels were already preset; correct?

7 A. Correct.

8 Q. So you didn't make any leveling decisions around that  
9 group; correct?

10 A. Correct.

11 Q. So the first group you were making leveling decisions about  
12 were those eight or nine -- the nine folks we talked about,  
13 Evren through Nick Harteau; correct?

14 A. Correct.

15 Q. And you'd never hired someone externally where you were  
16 making the leveling decision up until that point in time. And  
17 at that point in time, you didn't know what distinguished a  
18 Level 8 from a Level 9; correct? You were still figuring it  
19 out?

20 A. We were still figuring it out.

21 Q. And you weren't provided with any sort of leveling guide;  
22 correct?

23 A. There was no leveling guide for that position in  
24 engineering.

25 Q. And you weren't provided with any sort of metrics that

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Grannis - Direct

1 equated years of experience to a particular level; correct?

2 A. We didn't have that, no.

3 Q. And those first eight or nine people, you have less of a  
4 sense of the differences between what would make one an 8 and a  
5 9; correct?

6 A. No, we were still figuring it out.

7 Q. The additional expansion of the team from an external hire  
8 perspective happened following additional budget being  
9 allocated to the group; correct?

10 A. Yeah. Original plan was to have roughly 10 to 12; and it  
11 was proving so in demand that we expanded it. We had almost --  
12 by August of that year we probably had 30, 32, 34 people,  
13 something like that.

14 Q. Okay. So there was a first wave and then a second wave;  
15 correct?

16 A. Yeah.

17 Q. And it was that first wave where you didn't have the  
18 calibrated sense of the L8 and L9. And by the time you started  
19 with the second wave, you had a better sense; correct?

20 A. Oh, I'm sorry. I thought you meant -- by "wave," I thought  
21 you meant like the internal versus external. The first wave  
22 was the internal hires; we hired 17 people in six months  
23 internally. The second wave I was thinking of is the external  
24 hires.

25 Q. But you already testified that those external hires, you

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Grannis - Direct

1 didn't have a strong sense at that time; correct?

2 A. For the external hires, because all the other ones had come  
3 through with their levels, yes, that's correct.

4 Q. Now, your job in the hiring process was to ensure that the  
5 candidates were qualified at the L8 plus level; correct?

6 A. Correct.

7 Q. You didn't make the final leveling decision, you just made  
8 a recommendation; correct?

9 A. I don't think -- I'm just trying to think back. Like  
10 discrete leveling recommendations -- my job was really to  
11 confirm or if there was like an issue.

12 So let's say in the process of an interview, let's say  
13 we were given someone who, hey, we think that this person  
14 should be -- you know, this might be interviewing for L9.  
15 Well, if someone is going to be interviewing for L9, we'd have  
16 significant expectations around, you know, their expertise,  
17 background, and what they'd be able to create in terms of  
18 impact right away.

19 And so throughout the hiring process, you know, there  
20 would be that kind of, like, set looking for those  
21 expectations. Of course, as you mentioned before, we were  
22 still trying to figure it out. But if someone was coming  
23 through as an L8, we'd also have certain expectations. We'd be  
24 looking for their acumen along these dimensions that we thought  
25 would match with an L8.

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1 Q. Okay. I'm going to give you a yes-or-no question.

2 You don't know who made the final leveling decision  
3 with respect to those nine individuals, do you?

4 A. No.

5 Q. And you also don't know whoever the person was that made  
6 that final decision, what they were basing that on; correct?

7 A. Correct. Because final decision was really at the  
8 committee. And the committee, we don't know who they are, and  
9 we are not privy to the debate that they have about the  
10 candidates and the recommendation.

11 Q. Now, your leveling recommendations were based on the  
12 following things: Demonstrated experience, background, acumen  
13 across the core elements of the role, the role-related  
14 knowledge, as well as the three other categories: Googliness,  
15 GCA, and leadership; correct? Those were the categories, the  
16 things you were considering in making your recommendation?

17 A. Sounds right.

18 Q. Just because I'm sure the jury is interested, what is  
19 Googliness?

20 A. Humility, curiosity, really interested in helping solve the  
21 problems of our customers, you know, for users. It's like a  
22 really deep sense of empathy for how technology might actually  
23 make, you know, the world a better place in whatever category  
24 we were trying, whether it's healthcare, financial services,  
25 media, government. It was the qualities that show through in

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Grannis - Direct

1 terms of curiosity, humility, asking questions, being careful  
2 about making assumptions, being data driven. Those things are  
3 all aspects of Googliness.

4 Q. And so at the time you hired Ms. Rowe, you thought she was  
5 Googly; correct?

6 A. Yes.

7 Q. Did that opinion of her ever change?

8 A. No.

9 Q. Now, with respect to your thought process with respect to  
10 leveling those nine individuals, you didn't do anything or  
11 document anything outside of gHire; correct?

12 A. All our notes are in gHire.

13 Q. And beyond interviewing them, you didn't do anything else  
14 to determine whether someone should come in as a Level 8 or  
15 Level 9; correct?

16 A. No. I'm sorry, I didn't do anything. So yes, I agree with  
17 your statement. Sorry.

18 Q. Let's go back to that initial nine, that cohort that came  
19 in externally.

20 Mr. Eryurek, he was a Level 9; correct?

21 A. He was.

22 Q. And Mr. Penberthy was a Level 8; correct?

23 A. He was.

24 Q. And Ms. Rowe was a Level 8?

25 A. Yes.

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1 Q. And Mr. Strong was a Level 9?

2 A. Correct.

3 Q. And Ben Wilson was a Level 9; correct?

4 A. Correct.

5 Q. And Jen Bennett was a Level 7?

6 A. Correct.

7 Q. And Brian Steikes was a Level 8?

8 A. Correct.

9 Q. And Jonathan Donaldson was a Level 9?

10 A. Correct.

11 Q. And Nick Harteau was a Level 9 as well; correct?

12 A. Correct.

13 Q. So five of the seven men hired into the initial group were  
14 leveled as a 9; correct?

15 A. Yeah. I'd have to do the math, but it sounds right.

16 Q. And the women were not hired as Level 9s; correct?

17 MR. GAGE: Objection, your Honor.

18 May we have a sidebar?

19 (Continued on next page)

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Grannis - Direct

1 (At sidebar)

2 MR. GAGE: Your Honor very clearly ruled that we were  
3 not permitted to get into litigating Jen Bennett's level. And  
4 counsel asked him what Ms. Bennett's level was. I hesitated to  
5 object because I don't want prejudice we were trying to avoid  
6 by excluding the evidence in the first place. She's now  
7 continuing to go down this path. There should be no discussion  
8 about Jen Bennett's level.

9 THE COURT: Yes.

10 MS. GREENE: Your Honor, I'm sorry, but I'm not  
11 intending to ask anymore questions about Jen Bennett. But in  
12 establishing the level of the group that he's testified was the  
13 external first eight, nine candidates he brought in, I just  
14 have to establish what the record is. I'm not going any  
15 further to ask anything about Jen Bennett at all. But I can't  
16 exclude from what he's defined as the first group of nine he  
17 hired in, that's just basic foundational evidence. And again,  
18 we're not going any further.

19 MR. GAGE: Here's why it's not, Judge. Counsel is the  
20 only one who's calling it a cohort. Counsel is the one who  
21 arbitrarily defined the nine people she asked him about. And  
22 if you look at the record, if you look at that transcript, he  
23 doesn't use the word "cohort"; counsel keeps calling it a  
24 cohort. And counsel keeps saying I'm asking about these nine.

25 She's doing exactly, exactly, what I said they were

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1 trying to do. And she should not ask another single question  
2 about Jen Bennett.

3 MS. GREENE: I'm not intending to.

4 MR. GAGE: And Mr. Grannis is going to testify there  
5 was no cohort and that he was continuously hiring.

6 MS. GREENE: Your Honor --

7 MR. GAGE: They are doing --

8 MS. GREENE: -- he testified about the initial eight  
9 or nine people.

10 MR. GAGE: Because you asked him about it.

11 MS. GREENE: Because it's in ER.

12 MR. GAGE: No, it's not.

13 MS. GREENE: If he testified to ER --

14 MR. GAGE: No, he didn't testify to ER. That's the  
15 whole point. She's reading from that document as if it's a  
16 deposition transcript. I know you admitted it, not for the  
17 truth of the matter. She's reading from it and he's saying he  
18 didn't remember the darn conversation, pardon me. He doesn't  
19 remember the conversation. So he did not testify that there  
20 was some cohort.

21 MS. GREENE: It doesn't matter. It's a word I can use  
22 in asking a question.

23 MR. GAGE: I'm not saying you can't use it.

24 MS. GREENE: He did testify that outside of any notes,  
25 he testified that at the beginning, when those eight or nine



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1 came in, he wasn't sure about the levels.

2 I'm not going to ask another question about Jen  
3 Bennett, but as to defining who he was talking about and what  
4 their levels were during this ambiguous time when he didn't  
5 know. That's always been in this case. We're not going any  
6 further than that. It's not about why he leveled Jen Bennett  
7 or not. But it's just a simple question as to who was he  
8 hiring during this period of time.

9 MR. GAGE: So then if that's true, then your Honor  
10 should strike the last question, and counsel should instead ask  
11 what was Ms. Rowe's level, not what level were the women who  
12 were hired in her arbitrary cohort.

13 MS. GREENE: You can strike it.

14 THE COURT: I am going to strike it.

15 MR. GAGE: She should not be talking about Jen's  
16 level. This is outrageous. It's unfair prejudice. It's  
17 already putting me in a position where I've either got to jump  
18 up and interrupt, and all I can do is ask for a sidebar.

19 MS. GREENE: May I ask another question?

20 MR. GAGE: Can I ask for a curative instruction that  
21 says the only --

22 THE COURT: One moment.

23 MS. GREENE: I want one question of clarification.

24 MR. GAGE: Go ahead, ask for clarification.

25 MS. GREENE: There is another document that's already

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1 in the record with respect to the women, Will Grannis saying  
2 that this is what I hear from all the women who have come in  
3 and complained, Ulku, Jen, that they don't fight heard enough  
4 for themselves. Like, are we not allowed to use that document  
5 now because it references Jen Bennett? It's already in  
6 evidence.

7 MR. GAGE: That document, I don't think -- first of  
8 all, the document is hearsay; it doesn't -- the document --

9 THE COURT: Wait a second. It's in evidence. Then I  
10 don't think you objected to it. Or if you did --

11 MR. GAGE: We did object to it.

12 MS. GREENE: But it came in.

13 MR. GAGE: This is the email --

14 THE COURT: Yes.

15 MR. GAGE: -- where Mr. Grannis says --

16 THE COURT: Jen/Ulku, that one.

17 MS. GREENE: Ulku/Jen.

18 MR. GAGE: Yes, he doesn't say that women have  
19 complained about their level. He doesn't say women have  
20 complained about discrimination. He says women have complained  
21 to him about their own state of mind in that they didn't push  
22 hard enough for themselves. That is wholly irrelevant to the  
23 case.

24 MS. GREENE: It is not.

25 MR. GAGE: What other women were thinking has no

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1 bearing on whether Ms. Rowe can prove discrimination in this  
2 case.

3 The instruction I would ask your Honor is that the  
4 jury be reminded that this case is about Ms. Rowe, and only  
5 about Ms. Rowe, not any other individuals at Google. Something  
6 simple like that.

7 MS. GREENE: I presume I can show Mr. Grannis the  
8 email and talk about that with respect to Ms. Rowe.

9 THE COURT: Yes. You may not bring out Jen.

10 MS. GREENE: I do not intend to.

11 THE COURT: Okay. Okay.

12 So Mr. Gage, tell me again -- or Ms. -- the  
13 instruction you agreed on.

14 MR. GAGE: I just want to remind the jury that this  
15 case concerns Ms. Rowe and not any other individuals who work  
16 at Google. I will give you more instructions at the time of  
17 the charge at the end of the case. Something like that.

18 MS. GREENE: Do you also want to ask for the question  
19 and answer to be struck?

20 MR. GAGE: No. Just move on to another question.

21 MS. GREENE: I am.

22 THE COURT: Okay.

23 MS. GREENE: Okay.

24 (Continued on next page)

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1 (In open court)

2 THE COURT: Members of the jury, I just want to remind  
3 you that this case is about Ms. Rowe and not about any other  
4 individuals at Google.

5 BY MS. GREENE:

6 Q. Mr. Grannis, we talked about how the candidates were all  
7 interviews using the same interview questions; correct?

8 A. Correct.

9 Q. Okay. Just so we're clear, because I know it's difficult  
10 with the people who moved over into your group and the  
11 different ladder, when I talk about technical directors, I'm  
12 talking about levels 8 and 9 within OCTO, the director level  
13 technical directors.

14 A. Okay.

15 Q. And also when I'm talking about those eight or nine, I'm  
16 referring to that group that we talked about in the beginning,  
17 those first nine external hires, okay?

18 The panel of interviewers for those nine candidates  
19 were all men. Was that intentional?

20 A. One, I don't remember who all the panel members were for  
21 every single interview, so I don't know. But the panel members  
22 were selected based on people who had expertise in the area  
23 that were already at Google and could evaluate those areas and  
24 were calibrated.

25 Q. Were there any women at Google who satisfied those

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1 criterias to qualify as interviewers for the panel?

2 A. I don't know. I wouldn't know everybody at Google.

3 Q. Sitting here right now, do you know of anyone during that  
4 time period, a woman during that time period who was qualified  
5 to be a panelist?

6 A. It's quite possible. I was still pretty new to Google; I  
7 didn't have an extensive network of knowledge of who everybody  
8 at Google was.

9 Q. Had you received any sort of antibias training at the time  
10 you hired Ms. Rowe?

11 A. Had a range of training at Google. When I took it and -- I  
12 certainly have taken that type of training. I've taken  
13 probably hundreds of training courses, if not many hundreds of  
14 training courses over the years, so --

15 Q. Do you recall whether -- okay. Let me ask you another  
16 question. Do you recall whether in any of the training you've  
17 received it's been noted that the language bossy, abrasive, and  
18 aggressive can be gendered terms?

19 A. That's certainly something that we're on the lookout for.

20 Q. Now, going back to your leveling recommendations, you  
21 didn't compare any of the candidates against each other when  
22 making leveling recommendations, did you?

23 A. No, the candidates were evaluated solely on how they  
24 performed in the interview.

25 Q. Do you recall whether you considered hiring Mr. Eryurek,

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Grannis - Direct

1 Mr. Wilson, Mr. Donaldson, Mr. Strong, or Mr. Harteau as Level  
2 8s?

3 A. You know, I'm sure we had thought about it and considered  
4 it at some point as a collective, you know, from the recruiters  
5 to the panels; because they all knew that we were hiring both  
6 L8s and L9s.

7 Q. Are you sure or do you, in fact, know that they were  
8 considered as Level 8s?

9 A. I don't -- I'm not 100 percent sure for every single one of  
10 them that that conversation occurred.

11 Q. None of those five Level 9 men asked to be leveled as a 9;  
12 correct?

13 A. I have yet to ever meet a candidate who has asked for or  
14 requested a level coming in.

15 Q. And so none of them said they would only come to Google if  
16 they were hired as a Level 9; correct?

17 A. That would be very unusual, so I don't recall any of that.

18 Q. And so you don't recall Mr. Harteau telling you that he had  
19 to come in at a Level 9; is that right?

20 A. He may have, honestly, I don't remember. The thing that  
21 was unusual about Nick is that he knew Google really, really  
22 well. Most of the other technical directors that we hired  
23 really didn't know Google. So it's totally conceivable and  
24 totally possible that Nick knowing Google and having a sense of  
25 networking at Google would be more familiar with the levels,

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1 and so may be more insistent on a level. That's absolutely  
2 possible.

3 Q. Do you recall discussing leveling with Mr. Harteau at all?

4 A. I remember discussing him coming to Google quite a few  
5 times. I don't know if we talked about level or not.

6 THE COURT: Ms. Greene, it's three minutes after 1.

7 MS. GREENE: Okay. This is a good a place as any to  
8 stop.

9 THE COURT: Okay. So members of the jury, we're going  
10 to take a lunch break now. And I want to remind you not to  
11 speak with each other or anyone else about the case, not to do  
12 any research on the case, and to use the rest rooms in the jury  
13 room.

14 Just a question for counsel. Is there a technology  
15 issue to work on over lunch?

16 MS. GREENE: Yes.

17 THE COURT: Okay. So then why don't we resume at  
18 1:45.

19 MS. GREENE: Your Honor, is a technician going to come  
20 during the lunch period to meet with us?

21 MR. GAGE: Maybe we can release the jury first, Judge.

22 THE COURT: I just want to tell them when to come  
23 back.

24 MR. GAGE: That's fine, 45 minutes.

25 THE COURT: Okay. So let's come back in 40 minutes,

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1 at 1:45.

2 (Jury not present)

3 THE COURT: Okay. Mr. Grannis, you may step down.

4 And you may sit down or go out or whatever you would like. And  
5 I will see you at 1:45.

6 THE WITNESS: Okay.

7 (Luncheon recess)

8 (Continued on next page)



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## AFTERNOON SESSION

1:45 p.m.

(In open court; jury not present)

THE COURT: I was going to ask Ms. Greene a question.  
I don't think P17 is in the record.

MR. GAGE: I was going to put that on the record, your  
Honor. It's not, and I'll wait till Ms. Greene comes back to  
say what I want to say.

THE COURT: So it was used to refresh someone's  
recollection, but it was not — let's wait for Ms. Greene.  
Ms. Greene.

MS. GREENE: Yes.

THE COURT: I did not think that P17 was in the  
record, and I went back and checked. It's not in the record,  
which Mr. Gage has also confirmed.

MS. GREENE: Yes, I went back and checked as well.

THE COURT: OK.

MS. GREENE: So —

MR. GAGE: Your Honor, if I may.

THE COURT: Yes.

MR. GAGE: I just want to make my record. We believe  
this is clearly excluded by your ruling. Counsel knew that P17  
was not admitted because counsel submitted a letter to your  
Honor last night, less than 24 hours ago, arguing this exhibit  
should be introduced into evidence, and then your Honor ruled

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1 this morning that this topic would not be covered. And then  
2 not only did counsel go down the path towards this issue,  
3 putting Google in a position of having to stand up and object  
4 in front of the jury, running the risk of the unfair prejudice  
5 we were concerned about, then we go to a sidebar and then  
6 counsel tells the Court that the document is in evidence. And  
7 that's outrageous. I would like counsel admonished for this  
8 because this type of conduct is putting us in a position here  
9 trying to defend Google worrying about what's going to happen  
10 next.

11 THE COURT: OK. Mr. Gage, let me make one comment  
12 about the events immediately preceding lunch, which is that  
13 when Ms. Greene went through the entire group, both men and  
14 women, you did not object at that point, and there would have  
15 been no way for the jury to know why you were objecting to a  
16 recitation of names and level numbers of men and women.

17 MR. GAGE: Your Honor, and I told you at the sidebar  
18 the reason I didn't is because I made a calculated judgment  
19 that I wanted to allow counsel — to see where counsel was  
20 going. And the entire time those questions were being asked,  
21 your Honor, the question was going through my mind, do I object  
22 or not? And I made a calculated decision to object when I  
23 did —

24 THE COURT: Yes.

25 MR. GAGE: — instead of five minutes earlier or two

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1 minutes later.

2 THE COURT: Yes, I understand. So —

3 MS. GREENE: Your Honor, may I just say something very  
4 briefly?

5 THE COURT: Can I have a copy of the document, because  
6 I don't — that binder is not here.

7 MS. GREENE: Would you like us to put it up on the  
8 computer for you, P17?

9 THE COURT: Yes.

10 MS. GREENE: I just want to acknowledge, your Honor.  
11 I absolutely was wrong. I went back at the break and checked,  
12 myself, because I did intend to use it with him to make sure  
13 that it had been admitted. It was not. I checked to see if  
14 there was objections, and that was one of the things I was  
15 going to ask your Honor to rule on or so I knew going in.

16 So we'd say that Mr. Grannis brought up a woman by the  
17 last name of Herbs and mentioned she was a Level 8 when I was  
18 asking him about who these technical directors were. In that  
19 context, him having talked about these technical directors, the  
20 internal hires, as he referred to them, in bringing up a woman  
21 who was a Level 8, I thought it necessary and important to  
22 clarify who the group we were talking with and distinguish it  
23 from that group that he kept referring back to, and that was  
24 the context in which then I talked about these level — these  
25 nine individuals and brought in their level.

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1           And I'm sorry, your Honor, I did not understand it at  
2           that time to be in violation of the rules or the spirit,  
3           certainly didn't mean to be in violation of the spirit of the  
4           rule, your ruling, so —

5           THE COURT: You represented on the record that you're  
6           not asking any more questions at all relating to Jen Bennett,  
7           correct? I believe you made that representation — well, the  
8           record speaks for itself.

9           MS. GREENE: Yes, that is the representation. I mean,  
10          that is the truth. I think the question that I had for you at  
11          the sidebar, again, was whether I can use a document —

12          THE COURT: Yes.

13          MS. GREENE: — that makes reference to Jen Bennett if  
14          I'm not calling her out or asking questions about her or in any  
15          other way referring to her.

16          THE COURT: OK. Yes.

17          MR. GAGE: I object. This document should not come  
18          into evidence.

19          MS. GREENE: OK.

20          THE COURT: I'm sorry. You were waving a copy of the  
21          document. Did that come up here?

22          MR. GAGE: I'm sorry, your Honor. I handed it up.

23          THE COURT: I'm sorry. All right. Let me look at the  
24          document.

25          MR. GAGE: This document should not come into evidence

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1 in light of your Honor's ruling. Because it talks about Jen  
2 Bennett, the jury should not see it.

3 THE COURT: What are you trying to use this document  
4 for, Ms. Greene?

5 MS. GREENE: Your Honor, this is a document where Will  
6 Grannis, her hiring manager, says that every woman who came to  
7 Google OCTO, one of them Ulku who he names, has told me they  
8 feel like they didn't fight hard enough for themselves. That  
9 relates directly to her concerns and her complaints. He's  
10 making a reference that she told him that they feel like they  
11 didn't fight hard enough for themselves, and then he goes on  
12 and says this is also the number one area where women ask for  
13 my advice/mentoring, respectfully fighting for what they think  
14 is fair comp. I think this document in and of itself is  
15 absolutely relevant, probative, and is not hearsay.

16 I will suggest that if we want to take Jen Bennett's  
17 name out of it and redact her name from there and perhaps only  
18 use that portion of the email and not use anything else, you  
19 know, underneath that, the other emails and things as well, we  
20 could do that as a way to make sure that Jen nor any other  
21 woman comes into this conversation.

22 But as to Mr. Grannis' direct recollections of  
23 conversations he's had with Ms. Rowe and generally the  
24 conversations that he's had about women fighting for  
25 themselves, it's absolutely relevant to this conversation and

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1 the claims, and the jury should be able to hear it. And the  
2 way to address it is not by keeping the document out but by  
3 redacting anything that could potentially be unduly  
4 prejudicial, which is the standard.

5 THE COURT: But when you redact, then clearly — if  
6 you have a sentence, "I also know that every woman who came to  
7 Google/OCTO" parenthetical redaction, doesn't that in itself  
8 say something to the jury?

9 MS. GREENE: Your Honor, we can't keep out something  
10 that is directly relevant in referencing our client because  
11 Mr. Grannis happened to mention another woman, and this is a  
12 document that he was asked about at his deposition. They've  
13 been on notice of this document. This was something that —

14 THE COURT: That doesn't mean it comes into evidence  
15 at trial.

16 MS. GREENE: It's true, but there's no surprise to  
17 Google about this document because it's always been something  
18 that we have focused on. I believe we concluded it at summary  
19 judgment. We included it in our 56.1 statement and in our  
20 brief. This document has always been an important part of the  
21 case as to Mr. Grannis' knowledge of Ms. Rowe's concerns about  
22 not fighting hard enough.

23 MR. GAGE: May I briefly respond, your Honor?

24 THE COURT: Yes, yes.

25 MR. GAGE: And I will be very brief, because let's

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1 talk for a second about what folks in this room are on notice  
2 of.

3 Ms. Greene wrote your Honor a letter last night  
4 specifically asking you to allow the admission of P17. She was  
5 on notice of the request, and then she was on notice this  
6 morning that you said, no, it doesn't come in. That's one  
7 reason it should not come in.

8 The second reason it shouldn't come in is because, as  
9 I said at the sidebar and I have said repeatedly, this is  
10 hearsay. It is Mr. Grannis writing about what other people  
11 told him about how they felt about their own behavior, and if  
12 — Ms. Greene, if I could please finish. I allowed you to  
13 finish.

14 MS. GREENE: I didn't say anything.

15 MR. GAGE: Your Honor, if counsel believes that it is  
16 somehow relevant, and I don't think it is, but if counsel  
17 believes that it is somehow relevant for the jury to know that  
18 Ms. Rowe said to Mr. Grannis she thinks she didn't fight hard  
19 enough for her comp, they can ask Mr. Grannis the question.  
20 And they could have asked Ms. Rowe, but I don't think they did.  
21 I haven't read all of the transcript, but — or, no, I did read  
22 the rough transcript, and I don't remember them asking her  
23 that.

24 So if this was so highly relevant, why didn't they ask  
25 her? The only reason they want this in is to poison the well.

NADHRow5

1 They want it to unfairly prejudice the jury to suggest that  
2 women at Google feel unfairly treated. That is evidence of  
3 nothing relevant to the questions before the jury —

4 MS. GREENE: Your Honor.

5 MR. GAGE: — as you've already ruled, your Honor.

6 MS. GREENE: May I just note, again, I have not  
7 introduced this document in contradiction of any order.

8 THE COURT: Was this document shown to refresh? I'm  
9 not —

10 MR. GAGE: It wasn't, your Honor. None of the people  
11 around it have testified yet.

12 MS. GREENE: I just have a possible solution here  
13 because, again, it's not with the intent of mentioning Jen  
14 Bennett at all. I think the fact that Mr. Grannis was on  
15 notice of conversations with Ms. Rowe — and, frankly, that  
16 everything — "I agree, I also know that every woman who came  
17 to Google OCTO have told me they didn't feel like they fought  
18 hard enough for themselves," that goes to willfulness and  
19 punitive damages under liquidated damages and punitive damages.  
20 He's on notice that women have told them.

21 What I would suggest, rather than the document, your  
22 Honor, if I could just be able to ask him whether he's ever —  
23 whether he's ever stated that every woman who came to Google  
24 OCTO have told him they felt like they didn't fight hard  
25 enough, omit names, use the document, if necessary, to refresh



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1 his recollection, but not enter the document and make no  
2 mention of Ms. Bennett.

3 THE COURT: But this is not a case about women at  
4 Google. This is not a pattern or practice case.

5 MS. GREENE: Your Honor, but his notice of this  
6 absolutely goes to the willfulness standard for liquidated  
7 damages and punitive damages. And I appreciate and respect  
8 your Honor's order, but it can't be that documents that  
9 specifically mention our client in the context of women  
10 complain about this and come to me about this can be excluded  
11 when it's evidence of a standard we have to meet for certain  
12 damages. And, yes, it's prejudicial, but the question is, is  
13 it unduly prejudicial? All evidence is prejudicial to one  
14 party or the other.

15 MR. GAGE: The this, your Honor, that counsel keeps  
16 referring to is what some unnamed women and some named women  
17 thought about themselves. It is not even their own thinking  
18 about whether they are paid fairly at Google. They didn't  
19 think they pushed hard enough. That's entirely different.  
20 That does not put Google on any notice that its practices in  
21 any way are unfair or unlawful. It has nothing to do with  
22 willfulness. This is not a complaint. Counsel is trying to  
23 characterize this as somehow a complaint about Google's  
24 practices. It's not.

25 MS. GREENE: Your Honor.

NADHRow5

1 MR. GAGE: Apparently it's a complaint about  
2 themselves and how they acted.

3 MS. GREENE: If I may put this into context. In  
4 December of 2017, Ms. Rowe raised a concern with Ms. Lawrence  
5 and Mr. Grannis about her leveling. This is some five, six  
6 months later. Mr. Grannis, as of this point in time, as of the  
7 prior point in time but certainly at the time he's  
8 acknowledging that, yes, they've raised this concern, Ulku in  
9 particular, is on notice. The fact that he did not notify HR  
10 when Ms. Rowe told him this, the fact that he didn't do  
11 anything about this is important evidence. He didn't act on  
12 it.

13 Ms. Rowe came with a particular concern in November  
14 and December. He's acknowledging that she told him something  
15 about not fighting hard enough for themselves and not — the  
16 number one thing he's asked for advice and mentoring is  
17 respectfully fighting for what you think is fair, and he didn't  
18 do anything —

19 THE COURT: OK.

20 MS. GREENE: — with respect to Ms. Rowe. This is  
21 probative, relevant evidence to the existence of her  
22 complaints, his acknowledgment of the complaints, and his  
23 complicity in not doing anything about them.

24 MR. GAGE: Your Honor, counsel is mischaracterizing  
25 the record. Ms. Rowe specifically testified that in November

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1 of 2017, when she raised her concerns about her leveling, she  
2 did not — she did not, she explicitly told the jury she did  
3 not connect it to gender. Indeed, you may remember her words.  
4 She said she didn't because she was concerned it was risky. So  
5 this is not a situation where Ms. Rowe raised a discrimination  
6 complaint and then Mr. Grannis did nothing about it.

7 Counsel is now misrepresenting the record from her own  
8 client's testimony. She conceded that. She specifically said  
9 that to make the impact to the jury that, oh, I was afraid and  
10 it was too risky, she suggesting, even though there's no  
11 evidence to suggest. She raised it HR later after May, and  
12 this is five months later. It has nothing to do with any women  
13 at Google saying that they thought Google did something wrong.  
14 This email is about women saying to Mr. Grannis that they think  
15 they did something wrong.

16 MS. GREENE: Your Honor, if I may respond to that,  
17 there's two important things here. One is it's a fair question  
18 whether Mr. Grannis understood that Ms. Rowe had been raising a  
19 concern about equal pay.

20 THE COURT: You're going to ask him that.

21 MS. GREENE: I am absolutely going to ask him that,  
22 but it is for the jury to decide what the relevance of evidence  
23 is. It's for the jury —

24 MR. GAGE: It's for the Court to decide.

25 MS. GREENE: Excuse me, Mr. Gage.

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1           There is going to be evidence offered in this case  
2           that a concern of underleveling, whether discrimination or  
3           gender is referenced at all, is a matter that's reported or  
4           reportable to ER, and there's an investigative process for  
5           that. And that is evidence that's going to come in, and it's  
6           going to help paint the picture for the jury of what people  
7           did, whether they used the processes that were available to  
8           them or not, or whether they acted in a way that rises to the  
9           level of justifying the liquidated damages and punitive damages  
10          that are available under the law.

11           So here we have — and, again, my suggestion was that  
12          I be able to question him about it without showing the document  
13          to the jury and without making any reference to Ms. Bennett.  
14          But the fact that he knows that there's a concern that she  
15          raised about not fighting hard enough for herself in connection  
16          with the underleveling issue she raised is something that could  
17          have or should have resulted in him taking this another step  
18          and going to ER on it.

19           MR. GAGE: Your Honor —

20           MS. GREENE: And that is part of the story that the  
21          jury should be able to hear as they weigh the evidence and as  
22          they think about motive and as they think about pretext and as  
23          they think about willfulness and negligence and all of those  
24          other things. So, again, what I would — I'm not going to  
25          recommend anything to the Court, but what I would be prepared

NADHRow5

1 to do is question Mr. Grannis, as I did at his deposition, but  
2 not — only show the document if necessary to refresh his  
3 recollection and not seek to publish it to the jury and not  
4 reference Ms. Bennett in any way.

5 MR. GAGE: Your Honor, I feel like I'm playing  
6 whack-a-mole. The argument keeps shifting. Now let's talk  
7 about ER. First, counsel is mischaracterizing the evidence and  
8 mischaracterizing what is going to come in. Now, counsel did  
9 not take depositions of the ER people that they are calling to  
10 testify at trial. So maybe, if what's taken in discovery  
11 determines admissibility, that means they shouldn't even  
12 testify, but as your Honor pointed out, what comes out in  
13 discovery is not necessarily admissible. But those witnesses  
14 will testify differently than what Ms. Greene has just said.

15 We had no problem with counsel asking Mr. Grannis if  
16 Ms. Rowe expressed these concerns to him about whether she  
17 fought hard enough for herself and for her compensation. Fine,  
18 they can ask those questions. They can absolutely ask those  
19 questions.

20 THE COURT: OK.

21 MR. GAGE: This document is inadmissible.

22 THE COURT: I'm going to stop this now, OK, because  
23 you, Ms. Greene, can ask Mr. Grannis whatever you want about  
24 Ms. Rowe. Any probative value of this document is outweighed  
25 by the risk of unfair prejudice to Google, and it is not coming

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1 in.

2 Now, are you using deposition designations with  
3 Mr. Grannis?

4 MR. GAGE: I presume — if he contradicts himself  
5 only, I assume.

6 THE COURT: Yes.

7 MS. GREENE: Thank you for answering for me, Mr. Gage.

8 Your Honor, I would not be using depo designations  
9 that make reference to Ms. Bennett or the document.

10 THE COURT: You cannot.

11 MS. GREENE: Right.

12 THE COURT: No deposition —

13 MS. GREENE: No, I won't.

14 THE COURT: — about this document.

15 MS. GREENE: I'm not going to. No, your Honor. I  
16 understand.

17 THE COURT: All right. Ms. Williams, can we bring the  
18 jury in, please.

19 Yes, Mr. Grannis.

20 MR. GAGE: He's right out in the hallway, so we'll get  
21 him in.

22 THE COURT: OK.

23 (Continued on next page)

NADHRow5

Grannis - Direct

1 (Jury present)

2 WILLIAM GRANNIS, resumed.

3 DIRECT EXAMINATION CONTINUED

4 BY MS. GREENE:

5 Q. Hello again, Mr. Grannis.

6 A. Hello.

7 Q. We were talking about the levels of the men in OCTO before  
8 the break. Do you recall that and whether you had considered  
9 leveling any of them as a Level 8?

10 A. Yes, we were talking about that, yes.

11 Q. Do you recall whether you considered hiring Ms. Rowe as a  
12 Level 9?

13 A. I don't.

14 Q. Now, you knew at the time of hiring that L8 and L9 had  
15 different compensation models, correct?

16 A. Yes.

17 Q. And you knew that the salary range for L9s was higher than  
18 the salary range for L8s, correct?

19 A. That's not exactly true. There are — there are bands and  
20 they overlap somewhat. I know this because I've been both an  
21 L8 and an L9 at Google. So they're not — there's not, like,  
22 one that's a progression to the other. There's a certain band  
23 at which they will overlap. So there are L8s, for example,  
24 that make more than L9s.

25 Q. Correct. But my question was the salary range was higher

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Grannis - Direct

1 for an L9?

2 A. The top of the range.

3 Q. Than L8?

4 A. The top of the range, yes.

5 Q. So L8 would hit a limit on the salary?

6 A. Right.

7 Q. While an L9 would have additional room on their salary,  
8 correct?

9 A. Correct, the band would extend further, yes.

10 Q. And the target bonus for L9s you knew was higher for L8s,  
11 correct?

12 A. Yes.

13 Q. And it's 40 percent for L9s, correct?

14 A. That sounds right.

15 Q. And 30 percent for L8s?

16 A. That sounds right too.

17 Q. And the target is keyed off of what the salary is, correct?

18 A. Yes.

19 Q. So if an L9 has a higher salary by virtue of being an L9,  
20 the bonus target is not only larger, the overall effect of the  
21 target is larger by virtue of the larger salary, correct?

22 A. Correct. They're multiplied by each other, yes.

23 Q. And you also understand and knew at that time that it's  
24 easier to move from an L9 to an L10 than it would be to move  
25 from an L8 to an L10, correct?



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Grannis - Direct

1 A. I had about a year into Google. I didn't really have much  
2 context for movement across levels. I mean, I was an L8, so I  
3 didn't really have much context for, you know, what a 9 or even  
4 a 10, like, the path to that would be internally.

5 Q. During this time that you were hiring, you were promoted to  
6 L9, correct?

7 A. No. I was — I was an 8.

8 Q. When were you promoted to L9?

9 A. Probably like a year-and-a-halfish after I started.

10 Q. It wasn't in 2017?

11 A. No. If it was, it would have been, like, middle or late  
12 '17, so right about the time I was hiring people more senior to  
13 me.

14 Q. You did not move from L8 to L10, correct?

15 A. Correct.

16 Q. Are you aware of a single instance when someone has moved  
17 from an L8 to an L10?

18 A. No.

19 Q. You are aware of instances where people have moved from L9  
20 to L10, correct?

21 A. Absolutely.

22 Q. Now, you considered Ms. Rowe to be overall qualified for  
23 the OCTO technical director position because she had both a  
24 technical background and a financial services background,  
25 correct?

NADHRow5

Grannis - Direct

1 A. Correct.

2 Q. And if you date back to her first job in fintech before she  
3 got her master's, she had been in the financial services tech  
4 industry for 22 years by the time you were considering her,  
5 correct?

6 A. I'd have to look at her résumé again. I don't know it as  
7 well as you do, but that sounds right. She had very deep  
8 experience in financial services.

9 Q. And the time that someone worked before they received an  
10 advance degree is time that Google would include in looking at  
11 their overall years of experience, correct?

12 A. Yeah, I would assume that all experience that was relevant  
13 would be considered.

14 Q. And you knew that while she was getting her master's, she  
15 was working for the National Center for Supercomputing  
16 Applications?

17 A. I don't remember that now, but sounds right.

18 Q. Do you know what the National Center for Supercomputing  
19 Applications is?

20 A. That is — I think it's a University of Illinois advance  
21 computing center, if I recall right, but I don't know much of  
22 the details. I never worked there.

23 Q. Well, you understood that working for the National Center  
24 for Supercomputing Applications was a technology-related job,  
25 correct?

NADHRow5

Grannis - Direct

1 A. Absolutely.

2 Q. And in fact, you viewed her as an expert on technology in  
3 the financial services, isn't that right?

4 A. That's correct.

5 Q. And that's one of the key reasons that you hired her,  
6 correct?

7 A. Yes. We wouldn't have hired her if she didn't have both  
8 technical acumen and financial services background.

9 Q. Now, she was someone who was considered to have high  
10 credibility when it came to matters pertaining to financial  
11 services, correct?

12 A. Yes.

13 Q. In fact, there was no one in OCTO who was more qualified  
14 than her with respect to the financial services industry,  
15 correct?

16 A. In fact, we — I purposely was looking for someone with the  
17 financial services expertise because at the time we had other  
18 verticals that we had covered from a recruiting standpoint, and  
19 financial services was a gap we had. So I was purposefully  
20 looking for someone with deep financial services expertise.

21 Q. And the financial services was a big potential market for  
22 Google, correct?

23 A. Absolutely.

24 Q. And so this was a critical hire for you, correct?

25 A. All of the hires have been critical hires.

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Grannis - Direct

1 Q. Including Ms. Rowe's, correct?

2 A. Yes.

3 Q. Let's pause for a minute and talk about your background a  
4 little bit.

5 A. OK.

6 Q. You graduated with your B.S. in 1999, correct?

7 A. Correct.

8 Q. As of 2017, you had 19 years of work experience, correct?

9 A. If you don't count me slinging pizzas when I was a  
10 teenager, I guess that's about right.

11 Q. That wouldn't be something that Google would normally count  
12 towards years of experience, right?

13 A. Probably not.

14 Q. And that 19 years of work experience includes the time when  
15 you were getting your MBA, correct?

16 A. Yes, because I was doing executive MBA.

17 Q. And during the time that you were in OCTO, you — during  
18 that time you worked from Austin, Texas, is that right?

19 A. No.

20 Q. Where did you work from?

21 A. I was in the Bay Area. I was in California when I started  
22 at Google. I moved from Virginia to California with my family  
23 for the first job that I had at Google, which actually wasn't  
24 OCTO. So for the first year, I did another role, and then I  
25 moved to Austin about two, two and a half years ago for my

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Grannis - Direct

1 oldest daughter, so she could go to high school there.

2 Q. People in OCTO worked around the United States, correct?

3 A. All over the world, five out of seven continents.

4 Q. Google is a technology company. Did they have good  
5 technology even pre-pandemic for allowing for virtual  
6 conferences and communications?

7 A. We do. We did, absolutely.

8 Q. So your team still operated as a team, though, functionally  
9 even if you weren't geographically in the same office, correct?

10 A. Correct.

11 Q. And you mentioned that you — you're still in Austin,  
12 Texas, is that right?

13 A. I am.

14 Q. And that's where you live with your family?

15 A. Well, my oldest daughter is here now in New York City, but,  
16 yes, my youngest daughter and my wife are with me.

17 Q. Do you have two daughters?

18 A. I do.

19 Q. How old are they?

20 A. 21 as of last week and 17.

21 Q. Very good. Now, as part of Ms. Rowe's recruitment, you had  
22 a conversation with her about what her next steps for her  
23 career might be after OCTO, correct?

24 A. Yes, she asked about, like perspective on career paths at  
25 Google.

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Grannis - Direct

1 Q. And so you had a conversation with her about the future and  
2 where she might go in Google, correct?

3 A. Yeah, absolutely. I had all sorts of hypotheticals about  
4 where — because the whole function — OCTO's function was  
5 designed to be kind of like a place where people who weren't,  
6 like, steeped in one area of technology or business, they could  
7 come, they could be with a peer group, they'd expand their  
8 skill set, and then that would create optionality for them  
9 either internally or externally.

10 Q. And you told her that if Google were to stand up a  
11 financial services vertical, she would be a strong candidate  
12 for that, correct?

13 A. I don't know if I'd word it exactly like that, but we  
14 definitely had a conversation about — because with her  
15 background and the business was obviously going to verticalize  
16 at some point. We just didn't know when. It didn't exist at  
17 the time when, sorry, Ms. Rowe was asking me the question. So,  
18 yeah, I mean, I figured, if the business was going to  
19 verticalize at some point in the future, being in OCTO would  
20 certainly be, you know, a wise move in my opinion.

21 Q. And you told her that when Google did stand up a financial  
22 services vertical, she had a lot of qualifications to compete  
23 for the role, correct?

24 A. Well, first, there were no plans when she and I had this  
25 conversation about a financial services vertical. This was

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Grannis - Direct

1 based on my experience knowing that as companies get bigger,  
2 especially tech companies, when they get bigger, they go from  
3 kind of generally selling to everybody and they specialize. So  
4 they would specialize and they would stand up a manufacturing,  
5 probably stand up an energy, probably stand up a financial  
6 services vertical, but I couldn't make any guarantee at that  
7 time because we didn't have them.

8 Q. So let me qualify that. You told her that if and when  
9 Google stood up a financial services vertical she had a lot of  
10 qualifications to compete, correct?

11 A. She would definitely have qualifications to compete.

12 Q. And in fact, you told people that if we're going to get  
13 serious about financial services, Ulku is the type of person  
14 who could really help us in the vertical, correct?

15 A. Absolutely.

16 Q. And you believed that, correct?

17 A. I still do.

18 Q. And that's something you expressed to Ms. Rowe as well,  
19 correct?

20 A. Yes, absolutely.

21 Q. Now, you reviewed Ms. Rowe in every performance cycle from  
22 2017 through mid-2022, correct?

23 A. That sounds about right. I'd have to double-check because  
24 she has a different manager that covered about an 18-month time  
25 frame from now, so maybe mid-'20. That sounds about right.

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Grannis - Direct

1 Q. And you rated her as exceeds expectations in every year you  
2 reviewed her, correct?

3 A. Correct.

4 Q. And with respect to the other technical directors at  
5 Level 9, those men, they didn't all get exceeds expectations  
6 while they were reporting to you, did they?

7 A. No, they did not.

8 Q. In fact, you were thinking about putting together a  
9 vertical lead team in your group, and you wanted to make her  
10 the head of that group, correct?

11 A. Yeah, that was very early on. We were thinking about, you  
12 know, what would it look like if we actually kind of clustered  
13 up — so stepping back, I had, like, a bunch of direct reports.  
14 By this point I had like 30 direct reports, and my number one  
15 priority is success of everybody that joins our team. It's a  
16 very unusual group.

17 So we were putting together plans for how we would  
18 cluster the team together. We were looking at options like,  
19 well, should we cluster by product area, by product knowledge,  
20 but that really didn't represent the full breadth of our team  
21 because we also hired people like Ms. Rowe and, you know, you  
22 mentioned a bunch of them earlier that also had, like, their  
23 super-strength was more of like a vertical area. And based on  
24 what I had seen from Ulku so far, you know, leadership, great  
25 impact with — you know, outside in the market with customers



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Grannis - Direct

1 and at events and with public policy, I thought she'd make a  
2 great lead for — if we had a vertical organization in OCTO,  
3 thought she'd make a great lead.

4 Q. And you talked about that with Melissa Lawrence, your HR  
5 head, right?

6 A. Oh, I'm sure I talked to her about that, yeah.

7 Q. And you talked to Ms. Rowe about it as well, correct?

8 A. Probably.

9 Q. And you talked to some of the men in the vertical spaces  
10 about it as well, correct?

11 A. Probably.

12 Q. And Mr. Eryurek and Mr. Wilson were two of the men who  
13 would have moved under Ms. Rowe in that verticals group,  
14 correct?

15 A. Correct.

16 Q. And they were both L9s, correct?

17 A. Correct.

18 Q. And so that meant a L9 — well, let me ask you this: That  
19 would have resulted in a level inversion, correct?

20 A. Correct.

21 Q. And what's an inversion in this context?

22 A. An inversion is when someone that reports to you is at a  
23 higher level than you.

24 Q. So in this case, two of the L9 men would have been  
25 reporting to Ms. Rowe as an L8, correct?

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Grannis - Direct

1 A. Yes.

2 Q. But even with that inversion, you and others believed she  
3 was the best person for the role of that group leader, correct?

4 A. Absolutely. I mean, I was inverted. So, you know, I know  
5 that an inversion doesn't necessarily dictate the outcome.  
6 Certainly, she had demonstrated the leadership to be able to do  
7 it.

8 Q. Mr. Grannis, in connection with the performance review  
9 process, did you participate in any sessions to calibrate  
10 ratings across your — across your group?

11 A. Yeah, calibration was conducted across the team every  
12 performance review period.

13 Q. And did Melissa Lawrence participate in those calibration  
14 meetings with you?

15 A. Just trying to think back. Probably.

16 Q. And do you recall her taking any notes in those meetings?

17 A. We had to enter — I think we had to enter — this is a  
18 while back. We had to enter notes in, like, a system that we  
19 had, a tool, on ratings and justification for ratings. That's  
20 what I remember.

21 MS. GREENE: I want you to put up a document just for  
22 the witness, not yet for the jury.

23 THE COURT: Which document is this?

24 MS. GREENE: Oh, I'm sorry. That would be helpful.  
25 Plaintiff's 87.

NADHRow5

Grannis - Direct

1 Q. Mr. Grannis, do you recognize what type of document this  
2 is?

3 A. Looks like calibration notes.

4 Q. I want you to look through it, and we'll slowly page. I  
5 want you to tell me if, as a combination of who's mentioned in  
6 this document and any other information, you can place this in  
7 time.

8 A. Well, it says 9/29 at the top.

9 Q. I want to see if we can place it in a year.

10 And, Mr. Yang, if you can scroll through it slowly.

11 And, Mr. Grannis, if you can look to help us place  
12 what year this might have been.

13 THE COURT: Mr. Grannis, just to caution you not to  
14 read anything from the document out loud.

15 THE WITNESS: Oh, sorry.

16 THE COURT: OK.

17 THE WITNESS: Apologize.

18 THE COURT: I don't know that you did that, but I'm  
19 just letting you know now not to.

20 THE WITNESS: Thank you. I appreciate that.

21 MS. GREENE: And if you can go to the next page,  
22 Mr. Yang. OK. If you can go back to the first page.

23 BY MS. GREENE:

24 Q. Are you able to place this in the 2017 time frame?

25 A. I don't know if this is 2017 or early 2018.

NADHRow5

Grannis - Direct

1 Q. But it would have been in that time frame?

2 A. Would have been in the — probably the first few years.

3 Q. And does this reflect the individuals in your organization?

4 A. I would really need to see a — like, a list of — I would  
5 need to check, like, the HR record of all the people that were  
6 in like — I can't say with 100 percent clarity. We hired so  
7 many people so fast.

8 Q. Understood. Do you recognize names in here as names of  
9 people who were in your org unit?

10 A. Yes.

11 Q. And you participated in calibration meetings in that time  
12 frame for these people in your organization unit, correct?

13 A. Yeah, I participate in every calibration.

14 Q. Do you have any reason to think that these are not accurate  
15 notes of what happened and was discussed in the calibration  
16 meeting that you participated in?

17 MR. GAGE: Objection, your Honor.

18 THE COURT: Sustained.

19 MS. GREENE: OK.

20 THE COURT: We're using this to refresh his  
21 recollection?

22 MS. GREENE: Well, I'm actually laying a foundation to  
23 bring this document into evidence, which is —

24 THE COURT: Is there an objection on this document?

25 MR. GAGE: There is, your Honor. We don't know who

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Grannis - Direct

1 the author is. It's hearsay.

2 MS. GREENE: Actually, your Honor, we do know who the  
3 author is. If we need to have a sidebar, we can.

4 THE COURT: Yes.

5 (Continued on next page)

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NADHRow5

Grannis - Direct

1 (At sidebar)

2 MS. GREENE: So this is an actual issue that we raised  
3 with Google back in July of 2023. We asked about this  
4 document, and Google said Melissa Lawrence — Melissa Lawrence  
5 is the custodian. As you can see from the metadata you have,  
6 the title of the document is copy\_of\_OCTO\_calibration\_YE\_17,  
7 which would indicate that it was created in connection with the  
8 team meeting 9/29 during the year-end 2017 perf. cycle.  
9 Ms. Lawrence can confirm this at trial.

10 Ms. Lawrence is going to be a witness later in trial,  
11 so this document, at the time Ms. Lawrence can authenticate it,  
12 is going to come into evidence, but I need to be able to ask  
13 Mr. Grannis about it now as a participant in that meeting.

14 THE COURT: Hang on. Is that your objection,  
15 authentication?

16 MR. GAGE: No. My objection is — there are multiple  
17 objections. It's hearsay. Second — and I don't think they  
18 can establish that it's a business record of any sort.

19 Second, the witness who is on the stand right now  
20 apparently doesn't recognize it, and so there's no foundation  
21 to show that this contains relevant information. They can ask  
22 Ms. Lawrence about what it was and how it was created and try  
23 to establish it's a business record and it gets in as not being  
24 hearsay or it gets in through a hearsay exception. They can  
25 try. I don't think they can establish that given what we know

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Grannis - Direct

1 about the document, but they haven't established it for this  
2 witness.

3 MS. GREENE: Well, at the time Ms. Lawrence brings it  
4 in, it won't be hearsay because it will be offered against the  
5 party. It will be outside of the hearsay rules. I believe —  
6 I will just note that Mr. Gage just represented that they  
7 didn't know who it came from or who authored this document  
8 when, in fact, they had told us exactly that.

9 MR. GAGE: I missed it.

10 THE COURT: In the joint pretrial order this was  
11 identified as a document as to which there's an objection.

12 MR. GAGE: Yes.

13 MS. GREENE: Which is why I was laying the foundation.

14 THE COURT: But you can't authenticate it with him.  
15 So you have to wait until Melissa Lawrence comes.

16 MS. GREENE: Your Honor, the federal rules do provide  
17 that documents can come in subject to later authentication and  
18 foundation with a later witness. So that is — there is a  
19 provision in the FRE for that.

20 THE COURT: But there's also a hearsay objection, and  
21 it sounds like she is the one who can answer questions you  
22 might ask about whether it's a business record.

23 MR. GAGE: Correct.

24 MS. GREENE: OK.

25 MR. GAGE: And you've already established, I think

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Grannis - Direct

1 pretty thoroughly, this witness doesn't recognize the document.

2 MS. GREENE: It's not the document. I want to be able  
3 to ask him about the statements in the document.

4 MR. GAGE: But then the jury gets to hear them, and  
5 it's hearsay.

6 MS. GREENE: I understand how things work, and if I'm  
7 not — if I'm going to move it in and you're going to object,  
8 then that's what will happen, and we'll talk about it with  
9 Ms. Lawrence.

10 MR. GAGE: You can ask about him about calibration  
11 session and move on.

12 MS. GREENE: I understand how to ask the questions. I  
13 was moving to make a motion to admit it in. You would have  
14 objected. We would have been right here. That's where we are.  
15 I suggest we continue with the questioning.

16 MR. GAGE: OK.

17 THE COURT: Yes. Thank you.

18 (Continued on next page)  
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NADHRow5

Grannis - Direct

1 (In open court; jurors present)

2 BY MS. GREENE:

3 Q. Mr. Grannis, in 2017, was Jonathan Donaldson's performance  
4 score changed from an "exceeds expectations" to a "consistently  
5 meets expectations"?

6 A. I don't remember that. I'd have to see the documentation.

7 Q. OK. Take a look at P87 in front of you and for the purpose  
8 of just refreshing your recollection.

9 Again, without reading the document, does this refresh  
10 your recollection as to whether Jonathan Donaldson's rating was  
11 changed from exceeds expectation to consistently meets  
12 expectation?

13 A. Yes.

14 Q. And what do you recall now?

15 A. I mean, it doesn't — how —

16 Q. I'm sorry. Does it refresh your recollection or does it  
17 not?

18 A. It doesn't — it doesn't change the fact that I don't  
19 remember what was in the system back then.

20 Q. OK. That's fine.

21 I want to ask you, in 2017 did you consider Ms. Rowe  
22 to be a model for the sales team?

23 A. Certainly in her first — I'd even say six months, she  
24 demonstrated significant impact and acumen in sales  
25 engagements, marketing engagements, forums, broad forums for

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Grannis - Direct

1 customers. So, yeah, that's — you know, that's — those are  
2 all sales-related activities.

3 Q. Okay. Did you consider Ms. Rowe to be a mentor and coach  
4 to Leonard Law?

5 A. I — I guess Leonard would have to describe whether he  
6 thought he was a mentor — or she was a mentor or coach.  
7 That's really his opinion, not mine.

8 Q. Who's Leonard Law?

9 A. He was a PM. In that period of time, we had product  
10 managers — sorry, PM is a product manager. And a product  
11 manager was responsible for actually building the software that  
12 we would sell to clients. And Leonard Law was the financial  
13 services — if I remember right, financial services product  
14 manager at that time. We had specialized PMs for each — or  
15 for a couple high potential verticals at the time.

16 Q. Do you recall what his level was at that time?

17 A. I have no idea.

18 Q. Was it a Level 8 or was it below that?

19 A. I don't think it was a Level 8. Level 8 PMs were pretty  
20 rare.

21 Q. Would you agree that mentoring and coaching are Googly  
22 activities?

23 A. Yeah, absolutely.

24 MR. GAGE: Before your next question, your Honor,  
25 could the witness just tip the microphone down a little bit,

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Grannis - Direct

1 because every once in a while I'm having trouble hearing.

2 THE WITNESS: Sorry.

3 Q. Would you agree in 2017 you considered Ms. Rowe to be a  
4 fantastic hire?

5 A. Yes.

6 Q. And would you agree that you saw her as someone who could  
7 move fluidly between tech and business for financial services?

8 A. Yes.

9 Q. Product managers are also in Google's engineering — it's  
10 an eng role, correct?

11 A. Yes. The hierarchy has product managers, it has software  
12 engineers, it has OCTO, couple other functions.

13 Q. And did you give special weight or recognition to the work  
14 that Ms. Rowe was doing with regulatory in 2017?

15 A. I don't — I don't recall if I did anything, but it  
16 wouldn't surprise me if I did because she's been a consistent  
17 — consistently impactful member of the team in regulatory  
18 concerns.

19 Q. She was a real leader, thought leader, when it came to  
20 working with regulators amongst OCTO, correct?

21 A. Yes, I'd say she still is.

22 Q. And you saw her as a known commodity or a known quantity to  
23 PM and eng, correct?

24 A. Yeah, for the financial services vertical for sure.

25 Q. And she — you thought that at that time period she

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Grannis - Direct

1 understood the platform well, correct?

2 A. Yeah.

3 Q. Now, with respect to 2017, did you have performance  
4 concerns with any of the L9 OCTO men?

5 A. 2017? Six months in? I don't know. I don't know if I  
6 would have had enough visibility or enough data, but maybe.  
7 Certainly possible. It's a high bar.

8 Q. Do you remember if you leveled in 2017 all of the L9 men as  
9 exceeds expectations?

10 A. I have — I don't remember what I rated someone six years  
11 ago.

12 Q. I'm going to put up another document only for your  
13 identification, not for the jury, and that's going to be P113.  
14 And this is a document to which I believe there's an objection.

15 Is it an objection that defendants are maintaining?

16 MR. GAGE: Yes, there is, your Honor.

17 MS. GREENE: Where are we on time? When is our next  
18 break?

19 THE COURT: In an hour. In about an hour. In a word,  
20 what is the objection?

21 MR. GAGE: Among other things, I don't know who  
22 created this document, your Honor.

23 MS. GREENE: What would your Honor like to do? Should  
24 we have a sidebar to discuss?

25 THE COURT: Google, what is your position on — you

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Grannis - Direct

1 want to move this into evidence, is that —

2 MS. GREENE: Yes, your Honor.

3 THE COURT: OK. We're going to have to have a  
4 sidebar.

5 (Continued on next page)

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Grannis - Direct

1 (At sidebar)

2 MS. GREENE: If I may give context for this document.

3 THE COURT: Yes.

4 MS. GREENE: This is the document that Google produced  
5 to us. Google was the creator/author of this document. It was  
6 produced to us as an Excel spreadsheet in an extremely small,  
7 incomprehensible way for the jury to look at. What we did was  
8 we reformatted it in a way that allowed the jury to see  
9 something that was more accessible as a summary document.

10 THE COURT: OK. But that's all you did was blow it  
11 up?

12 MR. GAGE: No.

13 MS. GREENE: We rearranged the columns. It's a  
14 summary document. We've put them on notice of the summary  
15 document. The information in there is accurate information.  
16 There's no suggestion that it does not comport with the  
17 document from which we created this summary. We created the  
18 summary; they created the underlying evidence and information.  
19 It's complete as to the information that we're including, but  
20 it is in a form and function that allows the jury to quickly  
21 and easily see what is important about this document.

22 THE COURT: Just because Google produced it doesn't  
23 mean it's admissible.

24 MR. GAGE: No, let me clarify something. That is not  
25 something we produced. We were asked to produce data regarding

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Grannis - Direct

1 these employees.

2 MS. GREENE: Yes.

3 MR. GAGE: We produced the data. Outten & Golden  
4 created their summary of the data.

5 MS. GREENE: Correct.

6 MR. GAGE: The data that we produced that are  
7 summarized there includes information from data systems that I  
8 don't even know that this witness has access to because it's  
9 got a lot of information that — we have a comp witness who's  
10 going to testify later who can testify to some of it. We've  
11 produced — if counsel wants to ask about people's performance  
12 ratings, they've got them as exhibits. They've got other  
13 exhibits that are actual documents. This is a document of  
14 counsel's creation that contains information from a lot of  
15 different systems.

16 MS. GREENE: Your Honor, we can use the output that  
17 Google produced. I mean, data is —

18 MR. GAGE: He can't authenticate it.

19 MS. GREENE: Excuse me one moment, Mr. Gage.

20 The document is a document that Google produced of  
21 downloaded information from their data systems. If they're  
22 going to object to the authenticity of that, that raises real  
23 questions when it was their — let me finish — their document.

24 We can use the document that they produced to us.  
25 We're prepared to do that. We have it available. There won't

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Grannis - Direct

1 be any objection to authenticity when they know it's their own  
2 document created. To suggest otherwise would be disingenuous.  
3 It will, I think, be more difficult for the jury to read and  
4 see, but —

5 THE COURT: Are you familiar with that document that  
6 she's referring to?

7 MR. GAGE: I'm familiar with the data we produced.

8 THE COURT: Yes.

9 MR. GAGE: I'm sorry I haven't been clear enough on  
10 that point.

11 This witness has never seen that dataset, and so if  
12 you want to show it to him, ask him all the questions you want  
13 about it, but I have a feeling he's going to say: I don't know  
14 what this is. I don't — I've not seen it before. But if you  
15 want to ask him questions about it, fine. I just don't think  
16 that this document should come in through this witness. And  
17 under 1003, I think it is, whatever the Federal Rule of  
18 Evidence is for summaries, they need to have someone who can  
19 say this was created.

20 THE COURT: Yes, agreed. Use the data that you got  
21 from Google.

22 MS. GREENE: We'll use the spreadsheet that they gave.  
23 Is this your copy?

24 THE COURT: I'm sorry. I steal copies. Apologize.

25 MR. GAGE: I burn copies.



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Grannis - Direct

1 MS. GREENE: Your Honor, I just — I don't want to be  
2 back up here. If we use the dataset, the Excel spreadsheet  
3 that they produced to us —

4 THE COURT: I assume there's no objection.

5 MS. GREENE: And we'll be able —

6 MR. GAGE: You can use it. But what I don't want you  
7 to do is speaking to the content of it and telling the jury  
8 about what it is. You can ask the witness. You can ask the  
9 witness.

10 MS. GREENE: Bring it into evidence —

11 THE COURT: She wants to move it into evidence.

12 MR. GAGE: Sure.

13 THE COURT: OK.

14 MR. GAGE: Whether he can answer questions is a  
15 separate issue.

16 THE COURT: Yes, right.

17 MS. GREENE: Your Honor, I'm going to have them mark  
18 it as 113.

19 MR. GAGE: Wait. Actually, I'm not because I haven't  
20 — they didn't mark that as an exhibit, so I haven't had the  
21 opportunity to go back through that entire spreadsheet to see  
22 whether or not we agree to all the data we produced in  
23 discovery is relevant.

24 MS. GREENE: OK. It's —

25 MR. GAGE: No, I can't agree with that.

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Grannis - Direct

1 MS. GREENE: I'm going — OK. We gave them ample  
2 notice, pointed exactly to the document from which this summary  
3 was made. They had a chance to go back through it.

4 MR. GAGE: And we objected.

5 MS. GREENE: I'm sorry, Mr. Gage, if I may.

6 We need to be able to get this evidence in. It's  
7 maintained in Google in a format that they produced in an Excel  
8 spreadsheet. We'll put the Excel spreadsheet. There is  
9 information on this — in this document that Mr. Grannis will  
10 be able to speak to. To the extent he can't, he can say I  
11 can't speak to that.

12 THE COURT: If it's a Google-generated document, then  
13 what is your concern about the data on there?

14 MR. GAGE: Because, frankly, your Honor, they didn't  
15 proffer it. They proffered this, which means I never went back  
16 to this file to see what else is in there. They've summarized  
17 and taken some of the information from it, and I have no reason  
18 to believe they've done it inaccurately. But there was other  
19 stuff in there, and standing here right now, I have no idea  
20 what it is.

21 THE COURT: So how much more do you have with  
22 Mr. Grannis?

23 MR. GAGE: I mean, sure, they could ask other  
24 witnesses. Again, they've got —

25 MS. GREENE: I'm sorry, my outline is back there.

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Grannis - Direct

1 MR. GAGE: They have performance reviews of all these  
2 people. They can use that.

3 (Discussion off the record)

4 MS. GREENE: Your Honor, I can tell you that the only  
5 information that was omitted from the spreadsheet to the  
6 summary document was information that said "null" or the — I  
7 think there was a username entry, otherwise there was no other  
8 document —

9 THE COURT: OK. Stop. I'm reading from your  
10 objection, which is —

11 MR. GAGE: I was just doing the same thing. Go ahead.  
12 I was just doing the same thing. We also had a relevance  
13 objection because — and I don't have my glasses, I'm sorry.

14 There's information in here about people in the years  
15 in which they were clearly not performing the technical  
16 director job. So there's irrelevant information in here, and  
17 counsel was on notice that we had that objection and didn't  
18 advance the issue before this witness came on the stand and  
19 again.

20 MS. GREENE: Your Honor, the underlying document was  
21 on the JPTO in December, and they did not raise any objections  
22 as to relevance or anything else at that time.

23 MR. GAGE: Which exhibit is this?

24 THE COURT: When did this objection come in, because  
25 I'm looking at?

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Grannis - Direct

1 MS. GREENE: With the summary document when we decided  
2 instead of --

3 MR. GAGE: Where?

4 MS. GREENE: I said in the original JPTO that we  
5 submitted in December.

6 MR. GAGE: I'm operating off the current one.

7 MS. GREENE: I'm telling you and representing that the  
8 original JPTO in December included the underlying document, and  
9 there were no objections to relevance on that document.

10 MR. GAGE: But you're missing my point. I came to  
11 this trial to try the case that was presented in the most  
12 recent JPTO. I did not look at other document in a long time  
13 because Ms. Rowe didn't proffer it as among the things that she  
14 was going to offer.

15 THE COURT: Yes, but, Mr. Gage, you said: "Should the  
16 Court admit the summary into evidence, defendant respectfully  
17 requests that the underlying document also be admitted." So —

18 MR. GAGE: I don't have all these memorized.

19 MS. GREENE: With respect to the relevance issue, they  
20 have submitted and intend to use in their defendant's exhibits  
21 lots of things from the time these people were outside of the  
22 OCTO role, compensation documents, performance review  
23 documents. They are intending to use it and have offered it as  
24 evidence in every other context. They just don't want it come  
25 in in this document.

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Grannis - Direct

1 MR. GAGE: Can I offer a suggestion to solve it?

2 MS. GREENE: So there's no relevancy objection.

3 THE COURT: I don't know, Mr. Gage, because I think we  
4 have a suggestion coming straight from your objection: "Should  
5 the Court admit the summary into evidence, defendant  
6 respectfully requests that the underlying document also be  
7 admitted and the jury be given a cautionary instruction to  
8 carefully examine whether the chart is an accurate reflection  
9 of that underlying document." I'm going to hold you to that.

10 MR. GAGE: Sorry. Are you ruling that this is  
11 admissible, then? That's the only question.

12 THE COURT: No, I'm going to — so what I'm going to  
13 do is allow Ms. Greene to use the underlying document.

14 MS. GREENE: In which case I don't think there's any  
15 instruction that's necessary.

16 THE COURT: I agree, but I'll hear from Mr. Gage on  
17 that. You seem to have — somebody on your team reviewed the  
18 underlying document and made this proposal.

19 MR. GAGE: Understood, your Honor. I just haven't  
20 looked at that underlying document, so —

21 THE COURT: Somebody has. I don't mind if you —

22 MR. GAGE: That's fine.

23 THE COURT: If you want to take a moment to look at  
24 the underlying document before it goes up on the screen, we can  
25 give you that time.

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Grannis - Direct

1 MR. GAGE: I would like to just see the underlying  
2 document before it goes up on the screen.

3 MS. GREENE: I would just suggest we mark it as 113A  
4 for the purposes of identification, the underlying document.

5 THE COURT: All right. So, Mr. Gage, let us know when  
6 you're ready.

7 MS. GREENE: OK. Thank you, your Honor.

8 THE COURT: Thank you.

9 (Continued on next page)

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Grannis - Direct

1 (In open court; jurors present) e

2 MS. GREENE: OK. Just for the parties' use right now,  
3 if we could bring up the underlying document for 113.

4 Mr. Gage, is there more you need to do in terms of  
5 reviewing it?

6 OK. May I publish to the jury?

7 THE COURT: You may.

8 BY MS. GREENE:

9 Q. OK. Mr. Grannis, you're seeing an Excel spreadsheet of a  
10 dataset that was produced by Google, and do you see the — the  
11 first row where it includes the headers?

12 A. I do.

13 Q. And the individuals listed here — Ulku Rowe, Ben Wilson,  
14 Evren Eryurek, Nick Harteau, Breslow, and J. Donaldson — with  
15 the exception of Mr. Breslow, these were direct reports of  
16 yours, correct?

17 A. Yes.

18 Q. And if you look at the bottom, this tab we're on, 2017.

19 A. That's what I was looking at when you asked me the  
20 question.

21 MS. GREENE: If we can go up, we can scan to the right  
22 of the document, please, Mr. Yang, slowly scanning over. And  
23 if you could keep going a bit, and if we could pause there.

24 Q. We see the Q3 ratings. Do you see that, column V, the  
25 2017?

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Grannis - Direct

1 A. I do.

2 Q. Q3 ratings?

3 A. I do.

4 Q. Because it's a spreadsheet, it's difficult maybe to  
5 remember which one of these goes with which person, but you see  
6 that two of your direct reports received consistently meets  
7 expectations, correct?

8 A. Yes, from what I remember of column 1 as it panned over,  
9 yes, I think that's right.

10 Q. And Ms. Rowe was not one of those, right? She's one of the  
11 ones that received exceeds expectations?

12 A. If she was line 1 or 4 — 2 or 4, yes.

13 Q. OK. Ms. Rowe is line 2.

14 A. Yes.

15 Q. I'm going to write that down so I remember it too.

16 Thank you. Thank you, Mr. Yang.

17 If we move over and we keep moving to the right,  
18 there's information about the model salary, the proposed  
19 salary, correct?

20 I'd like us to go now all the way over to the right of  
21 the document. Keep going. We're looking for the notes — I'm  
22 sorry. Can you go back a little bit. And maybe the easiest  
23 way to do this is to do a search for the word "potential" so we  
24 can find the right entry. Thank you.

25 OK. So this is a note, if we can hold it right there,



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Grannis - Direct

1 from Monday, November 20. If we go way back, you were the  
2 person associated with this. I want to draw your attention to  
3 where it says "Ulku has rapidly demonstrated L10-plus  
4 potential." Do you see that?

5 A. I do.

6 Q. Do you recall noting that in 2017 that Ulku has rapidly  
7 demonstrated L10-plus potential?

8 A. That sounds like something I would have said.

9 Q. And you believed that to be the case, correct?

10 A. Yeah.

11 MS. GREENE: OK. We can take that document down.

12 Q. Now, in late 2017 Ms. Rowe raised concerns to you and  
13 Ms. Lawrence about her level, correct?

14 A. I don't remember. I mean, 2017 — like in terms of placing  
15 it as a timeline, I do know that she did express the concern.  
16 I'm just not 100 percent sure of the exact timeline. I  
17 apologize.

18 Q. Before she moved into Mr. Shaukat's organization, she had  
19 raised a concern with you and Ms. Lawrence that she was  
20 underleveled at 8, correct?

21 A. She expressed a concern about her level, yes.

22 Q. And you knew that she had learned that there were men in  
23 her group that were leveled at 9?

24 A. Yeah, as I mentioned earlier, it was a pretty transparent  
25 group.

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Grannis - Direct

1 Q. And she was frustrated about that, correct?

2 A. Yes.

3 Q. And do you recall Ms. Lawrence saying to her that there's  
4 no process to revisiting level?

5 A. I don't remember — I don't remember a conversation like  
6 that.

7 Q. OK. Let's look at Plaintiff's Exhibit 13. I don't believe  
8 there's an objection to this one.

9 Do you recognize Plaintiff's Exhibit 13 as an exchange  
10 between you and Ms. Lawrence and between Ms. Lawrence and  
11 Ms. Rowe?

12 A. Yes.

13 Q. In the bottom half is Ms. Rowe raising a concern about her  
14 level, correct?

15 A. Correct.

16 Q. And Ms. Lawrence's response — if we can call that out,  
17 Mr. Yang — "Unfortunately, as I relayed to you before the  
18 holidays, there is no process to revisit leveling decisions  
19 after hire."

20 Do you know whether that was a true statement?

21 A. Which part?

22 Q. That there is no process to revisit leveling decisions  
23 after hire?

24 A. At that time I have no idea if that was true or not.

25 Q. Do you know whether there's a process to revisit leveling?

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Grannis - Direct

1 A. I've never — I've never seen it, so I can't say that it  
2 exists or it doesn't exist.

3 Q. Did you do anything to find out whether there was, in fact,  
4 a process to revisit leveling?

5 A. I was given the guidance from HR that, you know — that,  
6 you know, there was nothing — I mean, it's written right here,  
7 "no process to revisit leveling," so —

8 Q. It said, "I did review your concerns with Will before the  
9 break." In fact, had Ms. Lawrence reviewed with you before the  
10 break the concerns Ms. Rowe had raised about her level?

11 A. Yes.

12 Q. And what had you said to Ms. Lawrence then?

13 A. I probably would have said something like, you know,  
14 forward focus, is there anything we can do, things like that.  
15 I just would have asked a lot of questions.

16 MS. GREENE: OK. You can take that callout down, and  
17 if you can pull up now Mr. Grannis' response.

18 Q. Did you have a conversation with Ms. Rowe where you said,  
19 "The focus should be on getting to L9 by doing great  
20 work versus revisiting level"?

21 A. That sounds about right.

22 Q. Is there a process to revisit leveling of one of your  
23 reports, an L9, if once they were in the role you realized, you  
24 know what, they're not exceeding expectations, they're not  
25 doing as well as I thought they should do; let's make them an

NADHRow5

Grannis - Direct

1 L8? Is that something you've done with respect to your OCTO  
2 team?

3 A. I don't think we've — I don't think we've downgraded  
4 anybody.

5 Q. Do you know whether Ms. Lawrence shared with employee  
6 relations Ms. Rowe's concerns in 2017 or January 2018?

7 A. I wouldn't know firsthand what happened between Melissa and  
8 ER.

9 Q. And I think you said that you did not raise any concerns  
10 with ER about this either, correct?

11 A. I didn't personally raise the concern with ER.

12 Q. Did anyone in human resources ever interview you in  
13 connection with Ms. Rowe's leveling concerns prior to 2019,  
14 late 2019?

15 MR. GAGE: Objection. Asked and answered, I think.

16 MS. GREENE: No.

17 THE COURT: Overruled.

18 A. I don't know. I don't remember the time.

19 Q. Let me ask you a different question.

20 A. Sure.

21 Q. Prior to Ms. Rowe filing this lawsuit, were you ever  
22 contacted or interviewed by anyone in HR or employee relations  
23 about the leveling decision for Ms. Rowe?

24 A. Sorry. I'm just thinking.

25 I don't — I don't recall a specific instance.

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Grannis - Direct

1 Q. You recall whether Kevin Lucas — do you know who Kevin  
2 Lucas is?

3 A. I think he was in HR, and I don't know if he was in, like,  
4 comp or if he was, like, someone related to Melissa's team, but  
5 somewhere in there.

6 Q. Did you ever have a conversation with Mr. Lucas about  
7 Ms. Rowe's level?

8 A. I don't remember six years ago. I don't recall.

9 Q. Now, you knew in December 2017 that Mr. Shaukat was looking  
10 to hire a VP of financial services, correct?

11 A. I was aware that the verticals were standing up and that he  
12 was looking for a leader.

13 MS. GREENE: OK. I'm going to ask you to put a  
14 document up again just for the witness and the Court, and we're  
15 going to put up P27.

16 Is there any objection to this document?

17 MR. GAGE: Just checking. No.

18 MS. GREENE: OK. We can go ahead and publish this,  
19 then, to the jury.

20 THE COURT: Yes, you may.

21 MS. GREENE: OK. If we can — this is the first page  
22 of — Mr. Yang, if you can flip to the second page.

23 Q. In a moment we'll rotate the view, but do you recognize  
24 this as a text exchange between you and Ms. Rowe?

25 A. Yes.

NADHRow5

Grannis - Direct

1 MS. GREENE: Are we able to rotate the view? If not,  
2 we're all going to be sitting sideways. OK. There we go.  
3 Thank you, Mr. Yang.

4 THE WITNESS: Thank you.

5 Q. OK. And this, if we remember, back from the early 2018  
6 time frame, correct? It's June 13, 2018. I'm representing  
7 that from the — I'm sorry, June 14, 2018, from the first page.  
8 I'm just telling you that's the —

9 A. There's no timestamp on this, so I don't know precisely.

10 Q. Right. And you're the column on the left here in this  
11 exchange, correct?

12 A. That's me, yes.

13 Q. And you're discussing the VP financial services role with  
14 Ms. Rowe, correct?

15 A. Yes.

16 Q. You wrote: "I think the fact that he put in an email that  
17 you'd be considered formally is an opportunity for you to earn  
18 the spot, and it is unheard of in Google to go up a level,  
19 never mind two, for an internal transfer."

20 What were you communicating in that text? What were  
21 you intending to communicate in that text?

22 A. Positivity. I think the fact that she got an opportunity,  
23 she got the email, was fantastic.

24 Q. And down below, you said: "You are awesome, Ulku. To have  
25 a shot at VP after only being in Google for a year and some is

NADHRow5

Grannis - Direct

1 a big vote of support. I recommend stepping out of yourself  
2 for a moment and thinking about whether this is a negotiation  
3 now or time to crush two other obviously inferior candidates."

4 Who were those two other candidates? Did you know?

5 A. I didn't know who they were. I just assumed they'd be  
6 inferior because I was a big fan of Ulku. Still am.

7 MS. GREENE: OK. We can take that document down.

8 Thank you.

9 Q. Do you recall telling people that if we're going to get  
10 serious about financial services, Ulku is the type of person  
11 who could really help us in that vertical?

12 A. That sounds like something I'd say, yeah.

13 Q. You were enthusiastic about her candidacy for the vice  
14 president role, weren't you?

15 A. I was.

16 Q. As far as you are aware, does Google have any sort of  
17 requirement that there be any certain number or any other  
18 external candidates when hiring for a position?

19 A. I'm not aware of any particular, like, metric or rule.

20 Q. You're familiar with Google's hiring processes, right?

21 A. I am.

22 Q. And one part of that can include getting feedback from  
23 Googlers who have worked with that person, correct?

24 A. Yes.

25 Q. No one contacted you for your opinion or experience in

NADHRow5

Grannis - Direct

1 connection with Ms. Rowe's consideration for the VP of  
2 financial services role, did they?

3 A. I don't recall being an internal reference for her, no.

4 Q. And other than Brian Stevens, nobody else asked for your  
5 opinion about Ms. Rowe, correct, and her candidacy for the VP  
6 position?

7 A. Not that I recall.

8 Q. You did discuss Ms. Rowe for the VP position with  
9 Mr. Stevens, correct?

10 A. I probably would have, yeah, as my boss, yeah.

11 Q. And do you recall Mr. Stevens being supportive of Ms. Rowe  
12 for that position?

13 A. I don't really recall any particular reaction.

14 Q. Mr. Shaukat definitely didn't talk to you about Ms. Rowe  
15 and her candidacy, correct?

16 A. Not that I recall.

17 Q. Ms. Rowe raised a concern to you that Mr. Shaukat wasn't  
18 meeting with her, correct?

19 A. She did.

20 Q. And that she was concerned about the lack of meetings and  
21 the infrequency of Mr. Shaukat meeting with her?

22 A. Yeah. You're referring to the time where she was already  
23 on the team, correct?

24 Q. Correct, after she had moved to Mr. Shaukat's team.

25 A. Yeah, yes.



NADHRow5

Grannis - Direct

1 Q. She raised those concerns with you?

2 A. Yes.

3 Q. Do you recall in — are you aware that in 2019 Google  
4 undertook a leveling equity analysis?

5 A. I don't remember exactly when it was, but there was  
6 definitely — there was definitely analysis done.

7 Q. And what did you understand the leveling equity analysis to  
8 be?

9 A. Just looking for inconsistencies and trying to make sure  
10 that we rectified it using data.

11 Q. And there was an acknowledgment that that was necessary  
12 because leveling impacts pay, correct?

13 A. Well, I don't — I wasn't part of deciding. I wasn't that  
14 senior. I wasn't part of deciding why we decided to do it, but  
15 I would assume that if we're doing it, it's because we want to  
16 get it right.

17 MS. GREENE: And I want you to, just for the witness,  
18 put in Exhibit P73. And if we can call out the company  
19 announcement section. Exactly, that portion of this.

20 Q. Do you recognize this company announcement, or do you  
21 recognize this as a company announcement?

22 A. I recognize it as a company announcement.

23 Q. And do you have any reason to think it was published on  
24 March 4, 2019?

25 A. No.

NADHRow5

Grannis - Direct

1 Q. And is that around the time period that you recall Google  
2 undertaking a leveling equity analysis?

3 A. Yeah, looks like, from the article, they've run one every  
4 year since 2012.

5 MS. GREENE: We'd like to move this into evidence.  
6 Are there any objections?

7 MR. GAGE: There was never an objection to this, your  
8 Honor.

9 THE COURT: It's admitted.  
10 (Plaintiff's Exhibit 73 received in evidence)

11 MS. GREENE: Excellent. Can we show and publish it to  
12 the jury, please.

13 I want you, Mr. Yang, if you would, please, pull out  
14 the section at the bottom that begins with "our pay equity  
15 analysis."

16 BY MS. GREENE:

17 Q. It says: "Our pay equity analysis ensures that  
18 compensation is fair for employees in the same job at the same  
19 level, location, and performance, but we know that's only part  
20 of the story, because leveling, performance ratings, and  
21 promotion impact pay. This year we are undertaking a  
22 comprehensive review of these processes to make sure the  
23 outcomes are fair and equitable for all employees."

24 Do you recall hearing, in sum or substance, about this  
25 statement with respect to the analysis Google was doing?

NADHRow5

Grannis - Direct

1 A. I mean, I don't remember, like, you know, this particular  
2 announcement, but this certainly — this announcement is  
3 familiar. So now, you know, seeing this, sure.

4 Q. Do you know whether in 2019 any sort of leveling analysis,  
5 equity analysis, was done within OCTO?

6 A. I don't recall. I don't think so. That data would be  
7 available to anyone because it would be in a centralized  
8 system, so it wouldn't necessarily need to be OCTO-specific.

9 (Continued on next page)

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NADVROW6

Grannis - Direct

1 BY MS. GREENE:

2 Q. Do you know whether at any point in time anyone at Google  
3 in connection with their job has done an equity analysis for  
4 leveling in OCTO?

5 A. I don't have firsthand knowledge, but it wouldn't surprise  
6 me if they did.

7 Q. Are you currently the lead of OCTO now?

8 A. I am. I've been the lead of OCTO since the beginning.

9 Q. Well, are you now -- what is your current title?

10 A. Sure. I'm the chief technical officer, Google Cloud.

11 Q. You replaced Brian Stevens; correct?

12 A. Not right away. So he departed in 20, I think, 19. And  
13 then for a period of time, I still managed the team, but I  
14 wasn't the official CTO or replacement for Brian. It was about  
15 two years later that I was promoted and then CTO.

16 Q. Is there anyone in OCTO who's more senior than you?

17 A. No.

18 Q. So would you know if they were doing an equity pay --  
19 sorry, a leveling equity analysis in your group?

20 A. Maybe. I mean, they are under no obligation to tell me if  
21 they do.

22 Q. Nobody's told you that they have?

23 A. No.

24 Q. And has there ever been any changes to levels, people's  
25 levels within OCTO that was dictated by somebody outside of

NADVROW6

Grannis - Cross

1 OCTO, legal department or the HR department or ER department?

2 Did anyone ever tell you, you need to change this person's  
3 level?

4 A. Not that I recall.

5 MS. GREENE: No further questions.

6 You can take that document down, please.

7 MR. GAGE: Your Honor, just so I can plan, when did  
8 you plan to take a break, so I can plan what to ask.

9 THE COURT: I think that an hour and a half puts us at  
10 about 3:20. So 15 minutes.

11 MR. GAGE: Okay. Terrific.

12 CROSS-EXAMINATION

13 BY MR. GAGE:

14 Q. Good afternoon, Mr. Grannis.

15 A. Good afternoon.

16 Q. A couple of items I want to cover before the break.

17 Do you remember earlier Ms. Greene asked you a  
18 question about the particular group of technical directors  
19 hired in the beginning, and she asked you whether these  
20 candidates were hired -- whether the candidates hired into this  
21 role needed to have a similar skill set, and then you gave an  
22 answer, and then she played something from your deposition?  
23 Remember that?

24 A. I do.

25 Q. Okay. And when you answered the question in court, I think

NADVROW6

Grannis - Cross

1 you said no. And then she played an excerpt from your  
2 deposition where you said yes. She asked you more questions  
3 than that in your deposition, didn't she?

4 A. She did.

5 Q. Okay.

6 A. I can also -- from a skills perspective, it's a -- it's an  
7 odd construct because we're trying to build a team that  
8 actually has very different, like, background experience and so  
9 also come with different skills. But in the hiring process we  
10 have standardized areas that we look for. And there's skills  
11 and leadership, Googliness, GCA, role-related knowledge. Those  
12 are similar.

13 So it's a complex question because, you know, are you  
14 looking for similar skills? Yes and no. We're looking for  
15 dissimilar skills on the way in when we're recruiting, and then  
16 the hiring process evaluates them on a standard rubric.

17 MR. GAGE: Your Honor, I would like to play a more  
18 complete clip from Mr. Grannis's deposition, including the  
19 question that Ms. Greene played, and the following question and  
20 answer.

21 MS. GREENE: Objection. He can ask -- I'm sorry, I  
22 won't speak. Objection.

23 MR. GAGE: Counsel tried to show that he testified  
24 inconsistent with what he testified to at trial. And I believe  
25 I'm allowed to show that his deposition testimony was

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Grannis - Cross

1 consistent with his trial testimony.

2 THE COURT: The objection is overruled.

3 MS. GREENE: What is the page?

4 MR. GAGE: It is the excerpt that you identified, page  
5 50, line 18, and you stopped on line 23 on page 50. I want to  
6 play the rest of page 50 and page 51 through line 10.

7 May we play it, your Honor?

8 THE COURT: You may.

9 (Video played)

10 MR. GAGE: Thank you.

11 BY MR. GAGE:

12 Q. The next point I'd like to ask you about, Mr. Grannis,  
13 Ms. Greene asked you some questions about a concern that  
14 Ms. Rowe raised about her level with you and Ms. Lawrence. Do  
15 you remember that line of questioning?

16 A. Yes.

17 Q. Okay. Did you believe at that point in time that there was  
18 any reason to change Ms. Rowe's level?

19 A. No.

20 Q. You were -- different topic. You were asked about an  
21 Exhibit P-27, which looked like a chat between you and  
22 Ms. Rowe, do you remember that?

23 A. Yes.

24 Q. We all had to turn our heads sideways for.

25 You didn't know who any of the other candidates were

NADVROW6

Grannis - Cross

1 for the financial services vertical lead role, right?

2 A. No, I just assumed she would be a top candidate.

3 Q. And in fact, the reason that you referred to two candidates  
4 was because she told you that she knew there were two external  
5 candidates, right?

6 MS. GREENE: Objection.

7 THE COURT: Sustained.

8 Q. What led you to believe there were two external candidates?

9 A. Because I had a conversation and it was shared that there  
10 were other candidates.

11 Q. Was that conversation with Ms. Rowe?

12 A. Yes.

13 Q. Now, were you at all involved in the process of defining  
14 that role, the financial services vertical lead role in Tariq  
15 Shaukat's organization?

16 A. No.

17 Q. Were you at all familiar with the thinking about the scope  
18 of responsibility for that role?

19 A. No.

20 Q. Switch to a different topic.

21 Ms. Greene asked you a number of questions about  
22 whether Ms. Rowe ever came to you expressing concern that Tariq  
23 Shaukat wasn't meeting with her. Do you remember those  
24 questions?

25 A. Yes.



NADVROW6

Grannis - Cross

1 Q. Did Ms. Rowe ever tell you what specific direction she was  
2 looking for from Mr. Shaukat?

3 A. No.

4 Q. Did you get an impression one way or the other whether she  
5 was looking for direction from Mr. Shaukat?

6 A. No.

7 Q. Was Ms. Rowe as a technical director in OCTO at the time  
8 who was transitioning over to Mr. Shaukat's organization, was  
9 she an independent contributor -- individual contributor?

10 A. Yes.

11 Q. And was she expected to act independently?

12 A. Yeah, that's the hallmark of executive hires, is they act  
13 independently, exercise judgment, so yes.

14 Q. Okay. Another preliminary question: Towards the end of  
15 her examination, Ms. Greene asked you whether you were ever  
16 aware of any leveling analysis of the employees in OCTO. Would  
17 you necessarily be told if one was done?

18 A. No.

19 Q. And why do you say that?

20 A. I think about it in two ways. One, the data is there, so  
21 that if someone wanted to run an analysis, they wouldn't need  
22 to tell me that they were going to run an analysis. And  
23 secondly, the organization might think it's better for, you  
24 know, the leader of a group who's undergoing analysis not to  
25 know that there's an analysis going on.

NADVROW6

Grannis - Cross

1 Q. Why is that?

2 A. Just because it's very reasonable before you have any  
3 conclusion, you know, I think if someone was to tell me they  
4 are running an analysis for whatever reason on my team, it  
5 would immediately cause concern. And I think before the data  
6 was available, you try not to cause people concern.

7 Q. Now, I'd like to take a step back, Mr. Grannis, and ask you  
8 some questions about your background.

9 Where did you go to college?

10 A. I went to West Point undergrad, and Penn grad school.

11 Q. Okay. You went to West Point. Did you serve after that?

12 A. I did. I served for five years on active duty, and then  
13 two and a half years on active reserve.

14 Q. And after your military service, what did you do next in  
15 your career?

16 A. I went to a small company, and I was like employee number  
17 9. And I was the head of product for the satellite transceiver  
18 that we were building for the U.S. military and commercial  
19 customers.

20 Q. Okay. And how long were you with that company?

21 A. With that company for about a year and a half. And we had  
22 rapid growth. Stock was in a pretty good place. My wife  
23 wanted to go back west to Seattle, where both my daughters were  
24 born and she was from. So I went and picked up with Boeing.

25 Q. That company that you were with, what was it called?

NADVROW6

Grannis - Cross

1 A. Comtech Mobile Datacom.

2 Q. And you indicated how large it was when you started there.  
3 How large was it when you left?

4 A. Well, we had, like, roughly ten or 11 people when we  
5 started; ended up with probably over 150, 160 in the year and a  
6 half.

7 We created a thing called blue force tracking, which  
8 basically allowed anybody in the military at the vehicle level  
9 or the individual level to know where people were based on  
10 complex satellite communications. And the reason that was so  
11 important is because we were at war. And knowing where, you  
12 know, the truck to the left and the truck to the right or the  
13 person to the left or the person to the right was critical  
14 in avoiding potential fratricide. So we displaced a huge  
15 incumbent; it was a pretty big success.

16 Q. What, if any, involvement did you have in the development  
17 of that product?

18 A. I was the head of product. So everything from, you know,  
19 technical design, there was a digital -- the core of the  
20 intellectual property was a digital signal processor that sits  
21 inside a housing. And based on modulating the energy, like  
22 timing the energy, you can give it properties, signal  
23 properties. And so we modified it so that the signal  
24 properties would be less detectable by adversaries, but also  
25 have enough information in them so that it would convey

NADVROW6

Grannis - Cross

1 location data. That was the whole positioning, anti-fratricide  
2 capability.

3 But I also did things like test pressure seals with a  
4 high-pressure hose out in the front yard of a house to make  
5 sure that when we deployed them to troops, that the top didn't  
6 pop off and stuff, so -- every job. Every job.

7 Q. And what other jobs did you have -- after that start-up,  
8 what did you do at Boeing, and then just bring us up to the  
9 point before you joined Google.

10 A. Okay. So at Boeing, because my wife wanted to make the  
11 move really quickly, you know, I had to find a job that was  
12 available. So I went and started in the research and  
13 technology division at Boeing.

14 Fun fact: I was a Level 2 engineer when I started,  
15 which is just above intern; but for me, I didn't care, one,  
16 because just had a really great success with a start-up; but,  
17 two, it was about the family. So I figured, you know, I'd be  
18 able to kind of pull myself up through the org if I did a good  
19 job.

20 So started as a level 2. And within a few years, I  
21 had created some programs that generated about a billion  
22 dollars in revenue, so I got pretty rapidly promoted through  
23 the org.

24 The next job after that was leading all of our defense  
25 and intelligence business in North America, which is about a

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Grannis - Cross

1 billion and a half in revenue, complex products for many, many  
2 customers. And then the CEO made me the lead for kind of an  
3 incubating technology organization that we had, it was called  
4 Phantom Works. And what Phantom Works did is in the advanced  
5 research and development arm of Boeing.

6 And what we did there was cutting-edge stealth  
7 technologies, high-performance computing, machine learning,  
8 cyber security. So pretty much anything in ones and zeros was  
9 my responsibility at the time that I decided to leave Boeing.

10 After that, I decided to start my own company because  
11 I had observed a phenomenon happening while I was at Boeing, a  
12 problem. Weapons of mass destruction, the supply chain. I was  
13 trying to figure out if we could, using open-source data,  
14 figure out where the supply chain for weapons of mass  
15 destruction might be originating and kind of happening in the  
16 world.

17 So I bootstrapped the company. I quit my job, which  
18 my wife to this day still says freaks her out. Two young  
19 girls. But I was just really on fire about this idea. And so  
20 I started a company, got a couple of laptops, and shared office  
21 space and went to work. And created a company that, in the end  
22 that we sold, we proved that you could use open-source  
23 technology, unsupervised machine learning, streaming analytics  
24 to actually detect the beginnings of the supply chain for  
25 weapons of mass destruction movement, which is very scary.

NADVROW6

Grannis - Cross

1 And after that I went to be the CTO of a company  
2 called L3, which is a diversified electronics manufacturer, as  
3 well as cyber security, data analytics, machine learning. And  
4 there, my responsibility was everything; product roadmap,  
5 success with customers.

6 And it was there that my data science team and I were  
7 working on a problem taking all of the media events that occur  
8 every day, and trying to figure out if you could -- this was  
9 like 2013. We were trying to figure out if we could look at  
10 media events happening every day and see if -- and determine  
11 sentiment from those media events, kind of figure out which way  
12 the sentiment of certain, like, news and media was leaning. So  
13 this was pretty cutting-edge stuff in 2013.

14 And my lead data scientist, Amanda, who I still  
15 remember today, she came to me one day and said, We can do it,  
16 but it's going to cost us \$4 million. I said, That's not going  
17 to work. Try again.

18 And she went and found a company, a technology called  
19 BigQuery, which at the time was actually Google. So Google had  
20 taken this analytics engine that existed internally, and they  
21 were about to put it external. And they had shared it so that  
22 you could just drag data and get analysis for pennies, where it  
23 would have cost you millions of dollars. And as soon as I  
24 experienced that, I knew I had to be part of Google.

25 Q. That brings us up to Google.

NADVROW6

Grannis - Cross

1 A. That brings us up to Google.

2 Q. I'm going to stop you there.

3 MR. GAGE: Judge, is now the time you want to take the  
4 break?

5 THE COURT: Yes. Thank you.

6 All right. So members of the jury, we're going to  
7 take our mid-afternoon break now with refreshments. Please  
8 remember not to talk to each other about the case, don't speak  
9 to anybody else about the case or communicate in any way with  
10 anyone else about the case. Do not do any research.

11 And we'll see you back here at 3:35.

12 (Jury not present)

13 THE COURT: Hold on one minute, everybody, after  
14 Mr. Grannis exits.

15 (Witness not present)

16 THE COURT: Two quick things.

17 One, when I ruled earlier on P-17, I believe I said  
18 that any probative value -- you may sit down. Any probative  
19 value of that document was outweighed by the risk of unfair  
20 prejudice to Google. My decision is that any probative value  
21 of that document is substantially outweighed by the risk of  
22 unfair prejudice to Google.

23 I also want to say that we are having too many  
24 sidebars in here and they are too long and it needs to stop.  
25 One thing that has happened at several sidebars is that the

NADVROW6

Grannis - Cross

1 parties - sometimes before I've had a chance to say anything -  
2 are coming up with solutions amongst themselves.

3 After today, we're not back here until Wednesday. I  
4 am directing you to figure out which exhibits each party  
5 intends to use from here in this trial, and meet and confer  
6 about any exhibits as to which there are pending objections,  
7 and figure out if you can come up with a solution.

8 All right. That's all for now. I'll see you at 3:35.

9 MR. GAGE: Understood, your Honor.

10 Your Honor, can we just ask how late are we going to  
11 go today?

12 MR. GAGE: I'm anticipating I will certainly finish  
13 with Mr. Grannis.

14 THE COURT: How much more do you have with him?

15 MR. GAGE: Forty-five minutes.

16 THE COURT: Forty-five minutes.

17 Okay. Well, that probably takes us to the end of the  
18 day, right?

19 MR. GAGE: Okay. I was just wanted to know how late.

20 THE COURT: I think so, because if we start again at  
21 3:35 and we do 45 minutes, we're not going to start -- this is  
22 what Ms. Greene raised with me yesterday. Are we going to cut  
23 it a little bit short as opposed to starting somebody else and  
24 then leaving in the middle. Is that -- Ms. Greene, you're  
25 looking --



NADVROW6

Grannis - Cross

1 MS. GREENE: Well, your Honor, we've had a witness  
2 waiting outside all day. And I understand we're not going to  
3 be able to get to him. He waited outside all day yesterday  
4 too.

5 THE COURT: Who is it?

6 MS. GREENE: Nick Harteau.

7 THE COURT: All right.

8 MR. GAGE: That's happened to a lot of --

9 MR. CHIARELLO: Is it fair to release him?

10 THE COURT: I mean, do you want -- we could go -- what  
11 did I say, 3:35? So we could go with him -- you're going to do  
12 45 minutes. Want to do 20 minutes or 25 minutes with him?

13 MR. GAGE: That assumes that they've got no redirect,  
14 I just want to point that out in the calculation.

15 THE COURT: Well, he'd have to come back.

16 MR. CHIARELLO: Then I guess the answer is just to  
17 wait and see where we are and how much time we have left.

18 MR. GAGE: It occurred to us, your Honor, I remember  
19 when we picked the jury, I think you told them through the  
20 18th. Just raising the question whether or not and when -- you  
21 might want to let them know that it looks like we're going to  
22 the 19th. Hopefully, we don't lose anybody; but it's something  
23 to put on the radar screen.

24 MS. GREENE: Your Honor, given where we are and given  
25 that even if we start Mr. Harteau he'd have to come back on

NADVROW6

Grannis - Cross

1 Wednesday, can we ask to release him?

2 THE COURT: Yes.

3 MS. GREENE: We're going to do that then. Thank you.

4 (Recess)

5 (Jury present)

6 MR. GAGE: May I proceed, your Honor?

7 THE COURT: You may.

8 BY MR. GAGE:

9 Q. Mr. Grannis, if you work at Google, does one need to be  
10 comfortable with ambiguity?

11 A. Yes.

12 Q. When you were first hired, the day you started, did you  
13 actually take the job you applied for?

14 A. No. Three times in the recruiting process I was told that  
15 the job that I was interested in no longer existed. And even  
16 the day I showed up, I found out that I was going to be doing  
17 something a little bit different than I was planning to do.

18 Q. Once you finally started, what were you doing?

19 A. Sure. So I was the first, kind of, product-oriented hire  
20 into what was then called Google for Work. So the way --  
21 Google Cloud didn't exist as an entity at that time. We had  
22 kind of an overlay on top of our product that was really just  
23 focused on selling Google product to enterprises, companies.  
24 And so they had never put a product person, and that's what I'd  
25 been doing my whole career is building things. They never put

NADVROW6

Grannis - Cross

1 a product person in the middle of that or it was normally more  
2 associated with the go-to-market functions, like sales  
3 marketing.

4 And what they wanted me to do was take our products,  
5 figure out how they are combined, and solve really hard  
6 customer problems. For example, like gaming. Problem in  
7 gaming is that sometimes it's hard to track -- at that time, in  
8 2015-ish, it's hard to track a player's journey through a  
9 mobile game and provide them, you know, like, opportunities to,  
10 you know, like, buy more diamonds or buy more jewels. These  
11 things -- these companies were trying to figure out how to  
12 advance their product.

13 And so my job was to take all of the products that  
14 Google had and try to rationalize them down into these kind of  
15 combinations of products that would allow a gaming company to  
16 do high-performance analytics on the fly like in a mobile game.  
17 Q. Did there come a point early in your career at Google when  
18 you were asked to do something different than that?

19 A. Yes.

20 Q. And when approximately was that?

21 A. It was about a year into my time.

22 Q. And who approached you?

23 A. I got a ping from Brian Stevens.

24 Q. And what was Brian Stevens' position at the company at the  
25 time?

NADVROW6

Grannis - Cross

1 A. He was head of product management.

2 Q. And what did Mr. Stevens ask you -- what did he ask you to  
3 do?

4 A. He didn't ask me to do anything. He pinged me and he said,  
5 Hey, I need your opinion on something.

6 And I said okay.

7 And he said, a couple of -- the leadership has decided  
8 we're going to stand up, kind of a -- we're thinking about  
9 standing up -- I don't think he was as definitive saying we've  
10 decided, but we're thinking about standing up a CTO function to  
11 bridge -- because at that time, when you start working with big  
12 companies, they have really senior people in technology, and  
13 they want to deal with somebody very senior on the other end.  
14 And Google had always been kind of like we put our engineers,  
15 our frontline engineers, in front of some very senior  
16 customers. So they dazzled them with technology, but they  
17 didn't really understand, you know, the pain points that those  
18 companies were going through.

19 And they said, Hey, we're going to build a function  
20 like this, what do you think?

21 And I said, It's going to be a disaster.

22 Q. I want you to help us with a definition. We've heard the  
23 phrase CT -- acronym "CTO," chief technology officer. Can you  
24 just briefly describe to the jury what chief technology officer  
25 means in the context you're speaking of?

NADVROW6

Grannis - Cross

1 A. Sure. And it actually goes to -- I guess I kind of left a  
2 cliffhanger there of, like, why, you know, I said a disaster.  
3 It's because Google didn't have CTO. CTOs in my parlance  
4 outside of Google, they were the senior-most technical person  
5 reporting to a CEO that had total authority, accountability for  
6 all the technical decisions and all the budget decisions  
7 related to technology in an organization.

8 And I thought that it was going to be very, very  
9 difficult to convince Google, you know, to do that. And so  
10 that's why, you know, my initial reaction to Brian was, We have  
11 to be ready to commit, you know, very senior level resources  
12 that the customer would immediately recognize as peers. But  
13 those peers were the CTO of a company, like a D person  
14 reporting to a CEO.

15 Q. Did you at some point agree to take on that role of  
16 starting the office of the CTO?

17 A. Yes.

18 Q. Okay. And when you agreed to do that, at the time you  
19 agreed to do that, what level were you?

20 A. 8.

21 Q. And when you agreed to do that, you started building the  
22 office of the CTO, did you get a promotion?

23 A. No.

24 Q. Did you get a raise because you took on those  
25 responsibilities?

NADVROW6

Grannis - Cross

1 A. No.

2 Q. Did you just start building?

3 A. Yes.

4 Q. Now, I'd like to talk a little bit about the job of  
5 technical director. I think you testified earlier that it was  
6 primarily an engineering job. What do you mean by that, that  
7 it's primarily an engineering request job?

8 A. Well, because it's in the engineering hierarchy. There are  
9 other CTO organizations in other companies, but they are in the  
10 sales function. And their primary -- having been in quite a  
11 few big companies and around this for a while, organizations,  
12 they take on the shape of where they're -- like, where they  
13 report to.

14 So reporting into engineering meant we had to be  
15 really on the cutting edge of research and development cloud,  
16 very technical things. Whereas, if we were in the sales org,  
17 like many, many CTO offices in the industry at that time, we'd  
18 have more sales objective functions. So like help close a  
19 deal, go drive top of the funnel, so like interest in the  
20 platform. But we purposefully made a decision to put it in  
21 engineering because we thought that was most credible for  
22 Google.

23 Q. Ms. Greene asked you a lot of questions around the early  
24 stages when you were hiring technical directors and around  
25 decisions about Level 8s and Level 9s. During that period of

NADVROW6

Grannis - Cross

1 time in 2016 and 2017, did you turn to or rely on any existing  
2 structures in the engineering organization to distinguish  
3 between Level 8s and Level 9s?

4 A. Unfortunately, there really wasn't a proxy for this. And  
5 also, there were so few L9s and L8s just in Google in general  
6 at that time.

7 I think, coming from, like, big enterprise like  
8 Boeing, we had a lot of VPs and we had a lot of, like,  
9 directors. At Google, we had hardly any. It was very rare to  
10 run into a VP or even a director at that time, which made  
11 our -- like, this function so, like, interesting, but also  
12 needed to be, you know, defined and put down on paper.

13 Q. I'd like to show you a document -- and this is just to show  
14 the witness -- D-38.

15 MR. GAGE: This is not evidence, your Honor. I just  
16 want to ask the witness some questions about it.

17 Q. Mr. Grannis, first, not specifically about this document,  
18 but at the time, were there engineering leveling guides at  
19 Google?

20 A. Yes.

21 Q. And did the engineering leveling guides that existed at the  
22 time provide any direction as to distinctions between a Level  
23 7, a Level 8/a Level 8 and a Level 9 in terms of what was  
24 expected?

25 A. It provided distinction. So there was, I think, up to a 7

NADVROW6

Grannis - Cross

1 and. Then there was an 8 plus.

2 Q. Okay. I want to again just show you this document and draw  
3 attention, Jean, if you would, to the bottom half of -- I think  
4 it's the second page. If you could make that a little bigger.

5 Take a look at that, Mr. Grannis. Does that refresh  
6 your recollection -- we can go back to the first page of this,  
7 Jean. Does that refresh your recollection as to whether there  
8 existed some engineering guidance on that?

9 A. It does.

10 MS. GREENE: Objection.

11 THE COURT: What's the objection?

12 MS. GREENE: Deals with the date of the document and  
13 the question that was asked.

14 MR. GAGE: Your Honor, I just asked if it refreshed  
15 his recollection.

16 THE COURT: What time period are you asking him about?

17 MR. GAGE: I just asked if it refreshed his  
18 recollection. I'm actually going to move to a different  
19 document, a plaintiff's exhibit, next.

20 THE COURT: I'm not quite sure I am getting the  
21 objection.

22 MS. GREENE: If he's moving on, then --

23 THE COURT: Okay.

24 MR. GAGE: Now you can take this down.

25 I'd like to put Plaintiff's Exhibit 8 up. And Jean,



NADVROW6

Grannis - Cross

1 if you could expand, if you remember the same section that  
2 Ms. Greene expanded. Yes. That's exactly it.

3 BY MR. GAGE:

4 Q. Do you see -- you looked at this document earlier,  
5 Mr. Grannis?

6 A. Yes.

7 Q. It's an email from Melissa Lawrence to people on your team,  
8 including Ms. Rowe; correct?

9 A. Correct.

10 Q. And does this document refer to engineering leveling guide?

11 A. It does.

12 Q. Okay.

13 MR. GAGE: You can take that down.

14 Q. And to the extent the other document refreshed your  
15 recollection, what are some of the distinctions between -- in  
16 the engineering space at Google, 2016/2017, what are some of  
17 the distinctions between an L8 and an L9?

18 A. Well, an L8 generally -- well, it's probably easier to go  
19 in reverse. So L9 -- at L9, someone's a world class expert in  
20 a topic. So this could be -- you know, in the engineering  
21 world it would be, you know, networking or high-performance  
22 computing or AI. There's someone that everybody would know who  
23 that is. People like that had -- were primary explorers of the  
24 frontier of that technology at Google. So not only were they  
25 experts, but they were also really pushing the frontiers of

NADVROW6

Grannis - Cross

1 what was possible.

2 So for example, an L9 might figure out a completely  
3 different way to do storage. So instead of, like, a little  
4 spindle that moves on those disks sometimes, like actually like  
5 reducing the amount of spindle travel in a disk to save energy  
6 and wear on a disk that might make storage last longer and be  
7 less expensive. Very, very nuanced, deep, technical topics  
8 like that.

9 A Level 8 would be someone who's probably recognized  
10 like -- like in like a -- like a localized way, you know.  
11 They're probably not -- they're probably not -- you know, they  
12 haven't created or done these things of distinction yet, but  
13 they've got really great, kind of, underlying skills, and  
14 definitely the potential to be a 9. But they wouldn't be  
15 recognized as a world class expert. Maybe they are an expert  
16 in like an industry or in their own company or in a small  
17 group.

18 Q. Okay.

19 MR. GAGE: Can we put up, Jean, Plaintiff's Exhibit 3.

20 Q. Can you take a look at this, Mr. Grannis.

21 Do you recognize this document?

22 A. Yes.

23 Q. This document, it says: Our ideal candidate is creative,  
24 curious, and a diligent problem solver.

25 Why were you looking for people like that?

NADVROW6

Grannis - Cross

1 A. Because we were really forging a path that was new.

2 Google is a company filled with incredibly talented  
3 engineers and all other functions. And so to try to put  
4 together a team that was going to be able to succeed in an  
5 environment like that, where everybody was already so highly  
6 qualified, means that we were going to have to show up as,  
7 like, you know, with our customers and our internal  
8 collaborators.

9 What are the biggest problems you're solving? What  
10 are the things that you're running into? How can we go and  
11 create some code to try to figure out how to solve those things  
12 in new ways?

13 So it wasn't just about what someone knew at the time  
14 they showed up. It was really were they willing and were they  
15 ready to learn a lot more. And were they willing to be  
16 influenced and impacted by the people they dealt with. Because  
17 remember, we're also constructing a team where nobody -- we  
18 were trying not to have overlap in skills and background. So  
19 if we had person A, and they were background in networking, we  
20 wanted person B that had a background in processor design; and  
21 then we wanted C, who might be a security expert.

22 So we're also assembling a dissimilar team. So for  
23 the team to function, they had to also collaborate; they had to  
24 be really interested in collaboration.

25 Q. Got it.

NADVROW6

Grannis - Cross

1           Now, I think below that, it says: As a technical  
2 director, your days may include private whiteboarding sessions,  
3 public evangelism, deep dives with internal engineering teams  
4 on key use cases for a given launch, and/or leading across  
5 Google technical working teams through critical engagement with  
6 a global brand CIO. How much are technical directors expected  
7 to roll up their sleeves and actually code and do the  
8 engineering work?

9 A. Significant amount. And it's gotten even -- over time, it  
10 increased even more. It was already a pillar at the beginning.

11           So you can see words like "private whiteboarding  
12 sessions with a Fortune 500 CTO." That puts a pretty high bar  
13 on someone to be able to independently -- imagine you close the  
14 door, and with you is a world expert in something, right, the  
15 CTO of this organization. And you had to be able to go  
16 toe-to-toe with them on a range of technical topics,  
17 engineering topics, culture topics. I mean, it is a really  
18 difficult thing to do.

19           And you also see here, like, deep dives with internal  
20 engineering teams. You know, over time, we also evolve not  
21 just from, like in 2016, the use cases, but, you know, over  
22 time, creating code has also been really, really important to  
23 this group. Because nobody likes someone who just shows up and  
24 pontificates for a while. Like, at some point, please show me  
25 what you're talking about. Give me an artifact.

NADVROW6

Grannis - Cross

1 Q. Got it.

2 A. And so that really drove in what we've learned, even since  
3 2016, is how important, you know, those artifacts are to  
4 success.

5 Q. As the chief technology officer, do you still write code?

6 A. I do. It's not good, and I wouldn't put it into production  
7 at Google. But I do. I mean, I've done everything from try to  
8 learn how to down-sample machine learning models from -- you  
9 know, like one that would run in a data center, down to one  
10 that would run on, like, a badge reader. So you don't have any  
11 memory, you don't have any frameworks; you literally have to  
12 figure out how to hack this model from one place to another.

13 Q. Got it.

14 MR. GAGE: You can take that down, Jean.

15 Q. You were asked some questions about the hiring process by  
16 Ms. Greene. Specifically, you were asked around -- questions  
17 around who actually makes the leveling decision. And you  
18 testified that the recruiter starts with a hypothesis.

19 What happens after that initial hypothesis is posed  
20 about a candidate, the hypothesis is this candidate is an 8.  
21 What happens after that?

22 A. They interview.

23 Q. And what does that process do to the hypothesis?

24 A. It tests it.

25 Q. How?

NADVROW6

Grannis - Cross

1 A. Because at that point now, you have a panel of people  
2 ranging from, you know, very senior people, you know, above L9;  
3 you'd have VPs in the panel, plus you'd have L8s and plus you'd  
4 have L9s in the panel quite often.

5 And it was meant to bring out and really showcase,  
6 honestly, the candidate's like best -- like where they were  
7 going to make an impact and how deep that impact would be, and  
8 also what kind of expectations we should have as a company.  
9 Because if we hired them, we really wanted them to succeed as  
10 well. So it would go from that.

11 And then there was -- you know, I would look across  
12 the panel in the interview and the results. I would look for  
13 consistency. Is there something that doesn't match up?  
14 Sometimes I would dig in and I would create these what they  
15 call statement of support. And a statement of support was me  
16 saying, you know, This thing is consistent and I endorse; or  
17 sometimes some things were -- they were like differences of  
18 opinion or like little things that seemed incorrect. So I'd  
19 also put in evidence I collected to clear those concerns. And  
20 then we would send it to the review board.

21 Q. Got it.

22 We'll come back to that in a little bit and some  
23 specific statements of support.

24 I want to talk about the difference between L8s and  
25 L9s in terms of expectations.

NADVROW6

Grannis - Cross

1           Was there a difference in OCTO in 2016/2017, and still  
2 today, is there a difference in performance expectations  
3 between an L8 and an L9?

4       A. Absolutely. An L9, we would expect that person, you know,  
5 kind of -- you mentioned earlier leveling guidelines and other  
6 things, general leveling guidelines. We would expect someone  
7 coming in at L9 to be a pace-setter for the organization;  
8 someone who could move across any one of those three categories  
9 at an expert level.

10           So they would have to have deep technical  
11 understanding related to Cloud, related to things that were  
12 germane to our business; they'd have to have deep industry  
13 expertise or deep, like, customer expertise; and they'd have to  
14 be great sharing our message or influencing the market  
15 externally. And those three things are extremely difficult to  
16 find at any level, much less find somebody who's great at them  
17 all at the beginning.

18       Q. When you're evaluating the performance of an L9, are you  
19 holding them to that higher bar?

20       A. Absolutely.

21       Q. And when you're evaluating someone who's an L8 in their  
22 performance, are you holding them to a lower bar?

23       A. Yes.

24       Q. And if someone gets and an "exceeds expectations" as an L8,  
25 is that the same as someone getting an "exceeds expectations"

NADVROW6

Grannis - Cross

1 as a Level 9?

2 A. No.

3 Q. We'll come back to that in a little bit.

4 I think you testified earlier that just being a Level  
5 9 does not necessarily mean higher pay; is that right?

6 A. Correct.

7 Q. Does it mean that the person has the potential to earn  
8 higher pay?

9 A. Yes.

10 Q. Do L9s always earn more than L8s in your organization?

11 A. No.

12 Q. When Ms. Greene asked you about a specific group of people  
13 by name in that early phase of hiring, but after Mr. Eryurek,  
14 were you hiring technical directors in OCTO continuously for a  
15 period of time thereafter?

16 A. Yes. We were hiring -- we went from probably like 17, 18,  
17 to about 30, you know. But all of those, you know, like, one  
18 at a time, one at a time, one at a time, but at a pretty fast  
19 clip. And then we continued to hire, but it's much less  
20 frequent than it used to be in the early days.

21 Q. Okay. Did you continuously hire through 2017 into 2018?

22 A. Yes. We've hired people every year I've been at OCTO.

23 Q. Who is Scott Penberthy?

24 A. Scott Penberthy, he's a technical director in the office of  
25 CTO.



NADVROW6

Grannis - Cross

1 Q. We'll take it a little bit at a time here.

2 When was Scott Penberthy hired into the office of the  
3 CTO?

4 A. It would be very early on, so it would be 2017 or 2018,  
5 somewhere in that.

6 MR. GAGE: I'd like to show the witness - just show  
7 the witness - Exhibit D-44.

8 (Continued on next page)

NADHRow7

Grannis - Cross

1 BY MR. GAGE:

2 Q. To the best of your recollection, was Mr. Penberthy hired  
3 around the same time as Ms. Rowe?

4 A. Yes.

5 Q. And what do you recall about Mr. Penberthy's qualifications  
6 when he came to OCTO?

7 A. Well, first, just the depth of AI expertise. He had a  
8 Ph.D. in AI. And also that he had worked as a technical  
9 adviser to the CEO of IBM. And the reason that's a really big  
10 deal — so in the tech world, we had these roles called  
11 technical adviser. You could argue that OCTO is a form of a  
12 technical adviser org. And generally speaking, if you were at  
13 one of the other big tech companies and you were a technical  
14 advisor to the CEO, you'd be handpicked by the CEO to follow  
15 them around for a year or two and advise them on any technical  
16 matter that they were working on. And then generally speaking,  
17 when you leave the technical adviser role, you become the head  
18 of a massive part of the organization. So, for example, the  
19 person who was the tech adviser to Jeff Bezos, Andy Jassy,  
20 became the head of AWS.

21 Q. One last quick question about Exhibit D44. Is this the  
22 hiring packet for Mr. Penberthy?

23 A. It is.

24 MR. GAGE: Your Honor, I would move the admission of  
25 this document.

NADHRow7

Grannis - Cross

1 MS. GREENE: Your Honor, I believe this is subject to  
2 a limiting instruction.

3 THE COURT: One moment. This is the same limiting  
4 instruction I gave this morning, correct?

5 MS. GREENE: Yes, your Honor, I believe so.

6 MR. GAGE: It's not offered for the truth, your Honor.

7 THE COURT: I get that part, but, yes, relating to  
8 hiring-related materials?

9 MR. GAGE: Yes, exactly.

10 MS. GREENE: Yes.

11 THE COURT: So members of the jury, you are about to  
12 see an exhibit marked Defendant's Exhibit 44, which consists of  
13 hiring-related materials. This evidence is admitted for a  
14 limited purpose. It is admitted only for its effect on anyone  
15 who reviewed these materials. You may not consider these  
16 hiring-related materials for their truth; meaning, you may not  
17 consider them as evidence that Mr. Penberthy —

18 MR. GAGE: Penberthy.

19 THE COURT: — Penberthy actually had the  
20 qualifications reflected in these materials, for the financial  
21 services vertical lead position —

22 MS. GREENE: Or technical director in OCTO.

23 THE COURT: — or for technical director in OCTO. You  
24 may give this evidence such weight as you feel it deserves, but  
25 only for the limited purpose for which it has been offered.

NADHRow7

Grannis - Cross

1 You may not use this evidence for any other purpose.

2 (Defendant's Exhibit 44 received in evidence)

3 MR. GAGE: Your Honor, I'm going to have some others  
4 just like that. Can your Honor just indicate that this  
5 instruction will apply to those, too, so you don't have to say  
6 it every time.

7 THE COURT: It's two more?

8 MR. GAGE: I think it's just a couple more, but I will  
9 indicate which ones they are, if that's all right.

10 THE COURT: They are also hiring-related materials?

11 MR. GAGE: They're hiring-related materials,  
12 absolutely.

13 THE COURT: So this instruction also applies to two  
14 exhibits coming soon. Are they going to be the next two  
15 exhibits?

16 MR. GAGE: Yes, there are a — it might not just be  
17 two. There might be a couple of others.

18 THE COURT: OK. I will —

19 MR. GAGE: I will alert you.

20 THE COURT: OK.

21 MR. GAGE: May we publish this to the jury?

22 THE COURT: Yes, you may.

23 BY MR. GAGE:

24 Q. Mr. Grannis, a few minutes ago you talked about a statement  
25 of support, and you said that in your role in 2016, 2017, 2018,

NADHRow7

Grannis - Cross

1 you would write a statement of support for a candidate in  
2 support of their hiring, and that was also in connection with  
3 the leveling. Is that right?

4 A. Yes.

5 Q. And does this document, D44, contain your statement of  
6 support for Mr. Penberthy at the bottom?

7 Can you just zoom in on that, Jean.

8 A. It does.

9 Q. OK. I just have a couple other questions about  
10 Mr. Penberthy.

11 You said that he worked at IBM. Ms. Rowe testified  
12 earlier in the trial that he came from PWC. Did he come from  
13 PWC as well?

14 A. He also came from PWC.

15 Q. And what was your understanding of the work that he had  
16 done at PWC?

17 A. Very much customer-facing engagements, client engagements,  
18 and combined with the technical expertise. That was a pillar  
19 that we were looking for as well. It was more of the  
20 custom-facing pillar, that particular piece of experience.

21 Q. And Ms. Rowe testified in the trial that she believed she  
22 was more qualified than Mr. Penberthy for the technical  
23 director role. Do you agree with that?

24 A. I don't.

25 Q. And what level was Mr. Penberthy hired at?

NADHRow7

Grannis - Cross

1 A. 8.

2 MR. GAGE: You can take that down, Jean.

3 Now I'd like to go to Exhibit D26. Your Honor, this  
4 is another hiring packet, Ms. Rowe's hiring packet, so same —

5 THE COURT: So this exhibit, D26, is also admitted  
6 only for its effect on anyone who reviewed these materials,  
7 which are hiring-related materials. You may not consider them  
8 for their truth; meaning, you may not consider them as evidence  
9 that Ms. Rowe actually had the qualifications for the technical  
10 director in the office of the CTO or OCTO. You may give this  
11 evidence such weight as you feel it deserves, but only for the  
12 limited purpose for which it has been offered and for no other  
13 purpose.

14 (Defendant's Exhibit 26 received in evidence)

15 BY MR. GAGE:

16 Q. Mr. Grannis, do you recall how Ms. Rowe came into the  
17 candidate pool, if you will, for OCTO?

18 A. I do.

19 Q. And how did she come into the candidate pool?

20 A. Recruiting let me know that there was a candidate that  
21 didn't get selected for another job in engineering but had a  
22 background that might be really interesting to OCTO.

23 Q. And what was interesting about her background to OCTO?

24 A. A combination of financial services, which we had said we  
25 were really looking for deep expertise in financial services,

NADHRow7

Grannis - Cross

1 and then also a technical background.

2 MR. GAGE: And if we could just flip to the next page  
3 of this exhibit, Jean.

4 Q. Now on this screen here, Mr. Grannis, there are a bunch of  
5 numbers on the left side and then there's a column with names  
6 and titles.

7 And, Jean, if you can go back to the prior page so we  
8 can see the top of that. And it's all under the heading  
9 "Interviews: Technical director, Office of the" — there we  
10 go. Let's just leave that up right there.

11 Can you describe — let's start from the left and then  
12 work across to the right. What is the 3.2 then what's to the  
13 right, what does that mean?

14 A. Sure. So when we interview candidates at this time we had  
15 a scoring range, and it goes from 0 to 4, and 3.2 would have  
16 indicated where that candidate fell on the scale according to  
17 the interviewer.

18 Q. And then what's next to the right of that?

19 A. The interviewer's name, their role, and the number of  
20 interviews they had conducted since being at Google.

21 Q. And what is the number of interviews they'd conducted,  
22 what's that relevant to?

23 A. It's relevant to are they calibrated, have they seen  
24 enough, you know, packets and candidates that we would have  
25 high confidence in their — in the score that they're giving.

NADHRow7

Grannis - Cross

1 Q. So does that mean that interviews conducted by people who  
2 had done more interviews are worth something different than  
3 interviewers' opinions of people who had done fewer interviews?

4 A. It was essentially a piece of data that we looked at,  
5 especially if there was a disconnect in ratings.

6 MR. GAGE: Jean, can you go to the statement of  
7 support for Ms. Rowe and highlight that.

8 Q. Is this the statement of support that you wrote for  
9 Ms. Rowe?

10 A. It is.

11 Q. And you wrote: "Clear demonstration of readiness to make  
12 an immediate impact as an L8. I enthusiastically endorse the  
13 hire recommendation."

14 Why did you believe Ms. Rowe was ready to make  
15 immediate impact as an L8?

16 A. Well, kind of the line before it. I mean, financial  
17 services, she was clearly, you know, very well steeped in  
18 financial services. It's a critical need for us, and she had  
19 the foundation technically that we knew she would be able to  
20 provide impact right away.

21 Q. Based upon what you knew at the time, did you think she was  
22 ready to make immediate impact as an L9 in OCTO?

23 A. No.

24 Q. Why not?

25 A. Well, you know, using the rubric we talked about earlier,



NADHRow7

Grannis - Cross

1 one, wasn't a world-recognized expert, at least from what we  
2 could see. We wouldn't have known about her as a candidate if  
3 it wasn't for recruiting letting us know.

4 Second, the job descriptions that are there mostly —  
5 and I'm just trying to recall the time — are mostly internal  
6 technical jobs. So, you know, that means that in terms of  
7 customer-facing or client-facing roles, compare and contrast,  
8 you know, with the earlier — like, some candidates come in  
9 with a blend of deep technical expertise, but also they spent  
10 time, like, on client engagements, customer engagements. This  
11 background, I think at the time it didn't demonstrate it  
12 strongly there.

13 MR. GAGE: I'd like to — we can drop this, Jean, or  
14 just that highlighted piece. And if you could go to page 12  
15 and highlight Brian Stevens' score and note.

16 Q. Let's take a look at what Mr. Stevens wrote: "Likely not  
17 one to drive CxO relationships, but she can certainly pair off  
18 as needed."

19 Was that an opinion you shared at the time about  
20 Ms. Rowe?

21 A. I certainly agreed with it because I didn't find it to be  
22 inconsistent with the rest of the panel recommendations. And  
23 if you look on there, there's also a piece of data there that I  
24 would look at, and you see the — there's kind of a  
25 distribution curve.

NADHRow7

Grannis - Cross

1 Q. Let's just go to that.

2 Jean, can you highlight the bar graph above there.

3 Can you explain what that reflects, Mr. Grannis.

4 A. Yeah, that's the distribution of scores for an interviewer.

5 And so another thing that I would look at is, is this

6 interviewer, you know — like, do their scores all skew a

7 certain direction? Where, in all the people they've

8 interviewed, would this score land? It's kind of consistent.

9 And so you can see here that Brian — Ulku's score landed kind

10 of in the center of a mass of distributions. Wasn't at the

11 tail of either end, so not a negative, not an overly, you know,

12 positive. And just the volume of interview scores means that

13 he was pretty well calibrated. And you can see it kind of

14 forming up so that the — that distribution also indicates his

15 experience in hiring.

16 MR. GAGE: You could take that down, Jean.

17 Q. A couple more questions about Ms. Rowe's hiring.

18 Did you offer Ms. Rowe any job other than technical  
19 director in OCTO?

20 A. No. It's the only one we had.

21 Q. Did you ever promise her that Google would give her any  
22 other role in the future?

23 A. No.

24 Q. Were you in a position to promise her a vertical lead job?

25 A. No. They didn't exist.

NADHRow7

Grannis - Cross

1 Q. Who is Brian Steikes?

2 A. Brian Steikes, he's a technical director in OCTO.

3 Q. Let me just pause you there. Take one bit at a time.

4 And was he also hired around the same time as  
5 Ms. Rowe?

6 A. Would have been around the same time, yes.

7 Q. And what do you recall about Mr. Steikes' background when  
8 he came on board?

9 A. Significant engineering expertise in networking. He was a  
10 fellow, I think, at HP, if I remember right. I remember the  
11 first conversation he and I had. We went up to a whiteboard  
12 and we started sketching out software-defined networks for  
13 large enterprises. And at the time we were trying to assemble  
14 a team, and one of the deficiencies we had was a really strong  
15 networking expert. And being a fellow, I don't know if that  
16 word means anything.

17 Q. Yes, explain to the jury what a fellow is.

18 A. Yeah. A fellow is the highest distinction in a technical  
19 role in a company. So like at Google, Google fellows are  
20 people who wrote the search index or people who, like, built  
21 all the data center, you know, designs for our entire company.  
22 They're very rare. And so a fellow at HP would be a very, very  
23 rare technical hire.

24 Q. Was Mr. Steikes hired as a Level 8?

25 A. He was.

NADHRow7

Grannis - Cross

1 Q. Earlier in the trial Ms. Rowe testified that, based upon  
2 her understanding of Mr. Steikes' qualifications, she was more  
3 qualified to be a technical director in OCTO. Do you agree  
4 with that?

5 A. I think it depends the lens you're using.

6 Q. OK. What do you mean by that?

7 A. Well, from a financial services lens, industry lens, I  
8 would agree that she had more expertise than Brian did and was  
9 better able to shape financial services-type engagements and  
10 progress. From a technical perspective, from an engineering  
11 perspective, I would disagree, and I would say that Brian had  
12 much deeper technical experience, especially in networking,  
13 than Ulku, or Ms. Rowe, sorry.

14 Q. Is Michael Marano another person who was hired as a  
15 Level 8?

16 A. Yes.

17 Q. Around the same time as Ms. Rowe?

18 A. Yeah, I believe so.

19 Q. Time frame.

20 What do you remember about Michael Marano?

21 A. He was the head of engineering for a customer that had  
22 platformed on Google Cloud, and so he had an in-depth  
23 understanding of our platform at that time. It was pretty  
24 rare. Unfortunately, we were pretty small at the time as a  
25 business, and so it was rare to have someone who actually had

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Grannis - Cross

1 engineering expertise of platforming on Google Cloud. So he  
2 brought knowledge of the gaming industry and he brought —  
3 which is what I think his company — where his company was at,  
4 and then he also brought deep expertise in our platform itself.

5 MR. GAGE: I'd like to pivot to some of the L9s. And  
6 your Honor this is another similar exhibit with the same  
7 instruction.

8 THE COURT: OK. So the exhibit you're about to see is  
9 subject to the same instruction that I've given you now a few  
10 times in the past few minutes. These are hiring-related  
11 materials that are not to be considered for the truth.

12 MR. GAGE: D42. We can publish it to the jury, your  
13 Honor?

14 (Defendant's Exhibit 42 received in evidence)

15 THE COURT: Yes, you may.

16 BY MR. GAGE:

17 Q. Why did you hire Mr. Eryurek as a Level 9?

18 A. A couple of things. So, first, Ph.D. in engineering. So  
19 deep technical expertise, but also he had real-world experience  
20 in, you know, scaled infrastructure for vertical, which was  
21 health care at the time and GE HealthCare. So the combination  
22 of finding someone who has such deep technical expertise but  
23 then also he had led the entire software engineering group for  
24 GE HealthCare, which at the time was a massive business unit,  
25 that combination was extremely rare. Plus he brought to the

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Grannis - Cross

1 table, you know, that — the panel I think — thinking back to  
2 him, it was pretty clear that he was going to be able to  
3 influence conversations at a very significant level, probably  
4 even outside of health care, but for sure starting in health  
5 care right away.

6 MR. GAGE: Jean, if you could go to the statement of  
7 support and just highlight Mr. Grannis' statement of support.

8 Q. And in it you wrote: "Evren immediately uplifts Google  
9 Cloud's credibility in the health care and transportation  
10 sector."

11 Was that a necessity at the time in Google Cloud's  
12 formation?

13 A. It was. As I mentioned earlier, we were a little bit  
14 smaller company, and people that we could hire that would  
15 uplift our reputation was extremely important to the business.

16 THE COURT: Excuse me, Jean. Can you highlight the  
17 line that was just read.

18 MS. GUTIERREZ: I thought I did. I'm sorry.

19 THE COURT: That's OK. I just want to make sure that  
20 the jury is not confused. Thank you.

21 MS. GUTIERREZ: Sorry about that.

22 MR. GAGE: Going to go to another one, your Honor. We  
23 can take this down. D27, same instruction, your Honor?

24 THE COURT: Same instruction.

25 MR. GAGE: D27.

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Grannis - Cross

(Defendant's Exhibit 27 received in evidence)

BY MR. GAGE:

Q. Who is Paul Strong?

A. Paul Strong is one of —

Q. Did you hire him into OCTO?

A. I did.

Q. As an L9?

A. I did.

Q. And why did you hire Paul Strong as an L9?

A. He was acting CTO of the VMware, which is like the original cloud company. He was field CTO at VMware. So not only was he at the top in engineering, but he was also at the top from a customer-facing standpoint. And that combination's extraordinarily rare.

Q. Did he bring any particular credibility to Google Cloud?

A. He brought a lot of credibility not just to Google Cloud, I could argue Google. He was routinely, for example, doing keynotes right next to Werner Vogels, who's the CTO of AWS. I mean, he was at Sun. He is at some of the formative companies, engineering companies, in the Valley and had worked all the way through the engineering hierarchy and was really VMware's face to the market for at that time. And, you know, VMware still is a considerable cloud company.

Q. Ms. Rowe testified to the jury that VMware's not a cloud computing company. Shall I take it that you disagree with

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Grannis - Cross

1 that?

2 A. I disagree with that.

3 Q. Let's move on to Mr. Wilson.

4 If we can go to D28. Same instruction?

5 THE COURT: The same instruction.

6 (Defendant's Exhibit 28 received in evidence)

7 BY MR. GAGE:

8 Q. Did you hire Ben Wilson as a Level 9 technical director?

9 A. I did.

10 Q. And why did you hire Mr. Wilson as a Level 9 technical  
11 director?

12 A. So, again, using the rubric, world expert in energy, oil,  
13 and gas, and then also he led the first massive deployment of  
14 enterprise applications to AWS Amazon, their cloud, and he was  
15 actually the reference — his work was the reference case that  
16 Amazon was using for credibility in the oil and gas market at  
17 that time. And so we didn't have anybody like that at Google  
18 that had actually led hundreds of enterprise applications.  
19 We're much more of like a kind of new age, you know, kind of  
20 cool applications like Spotify or things like that at the time.  
21 So Ben immediately upleveled our credibility, not just in oil  
22 and gas but also just, you know, that we had people on our team  
23 that had actually gone through the process, and it's not an  
24 easy one, of bringing hundreds of applications to the cloud.

25 MR. GAGE: Like to go to Mr. Donaldson. Can you put



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Grannis - Cross

1 up D24.

2 Again, your Honor, it's the same instruction.

3 THE COURT: Subject to at same instruction.

4 (Defendant's Exhibit 24 received in evidence)

5 BY MR. GAGE:

6 Q. Did you hire John Donaldson as an L9?

7 A. I did.

8 Q. Why did you hire John Donaldson as an L9.

9 A. Again, going back to the rubric, from a tech perspective,  
10 senior executive at Intel, leading all their data center group,  
11 software define group, plus he helped launch and was on the  
12 board of directors of the Cloud Native Computing Foundation.  
13 What does that mean? Cloud — sometimes when you want to take  
14 a technology and make it really popular, we will open source  
15 it, but the problem with open source software is it needs a  
16 place that will, like, look after it. So the Cloud Native  
17 Computing Foundation was the construct that was built to take  
18 Kubernetes — sorry, I know that's an unusual word —  
19 Kubernetes, which is a technology that allows us to make most  
20 efficient use of a lot of computers and the applications that  
21 are put onto those computers.

22 It was one of our most — two biggest breakthrough  
23 technologies in Google at the time, and he led the formation  
24 and was on the board of directors of the foundation that  
25 actually oversaw Kubernetes. He was at the forefront of cloud

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Grannis - Cross

1 native computing as well.

2 MR. GAGE: I'd like to pivot to Nicholas Harteau, and  
3 we can put up P118, which is the plaintiff's exhibit, your  
4 Honor.

5 Q. Mr. Harteau, did you hire Nicholas Harteau as an L9?

6 A. I did.

7 Q. Why did you hire Nicholas Harteau as an L9?

8 A. Consistent panel feedback. And, again, going to  
9 qualifications, he was the head of engineering at Spotify for  
10 their entire deployment moving to Google Cloud, and Spotify at  
11 the time was becoming one of our largest customers. So not  
12 only did he have an understanding of that market of kind of the  
13 new apps and how to put them into the cloud and a senior exec  
14 role at one of our top customers, but also he brought immediate  
15 credibility. Hiring someone like Nick to OCTO made OCTO  
16 immediately relevant. It made Google Cloud immediately  
17 relevant because you have to ask yourself the question, why  
18 would someone who is leading engineering at one of the top  
19 companies in the world choose to join Google and Google Cloud  
20 at the time?

21 Q. I'd like to talk briefly about the work Mr. Harteau did  
22 after he joined. Can you describe some of the work he did when  
23 he joined OCTO.

24 A. Sure. It was a lot. So, first and foremost, he helped us  
25 gain credibility and share knowledge and lessons learned with a

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Grannis - Cross

1 lot of companies that were considering Google at the time. So  
2 he would go and interact with others CTOs on our behalf and  
3 help shape that.

4 He helped put — bring together communities of  
5 engineers. Because he's an engineer in his DNA, he would do  
6 things like — small example but probably important is he  
7 established a Slack channel. So Slack is this app that you can  
8 communicate with people in an engineering org. And he created  
9 a Slack channel and invited a bunch of his peers, these were  
10 CTOs, heads of engineering from other companies like Stripe,  
11 Shopify, really, really high-end engineering companies, and he  
12 would invite them into this community to participate.

13 And what was really, really important about that is  
14 that the engineering DNA of our team was really, really  
15 critical. And Nick, because of where he came from and because  
16 of his experience, he intuitively knew that the engineers of  
17 top companies would respond better to this kind of informal  
18 mechanism of advising them. So he called it cloud therapy and  
19 invited the CTOs into this Slack channel, and then we were able  
20 to influence through direct interactions in the moment with  
21 CTOs of some of the top companies in the world.

22 Q. When he first joined OCTO, did he build any teams  
23 internally?

24 A. So he — he did, and he also — I mean, in addition to  
25 building teams internally, he built collaborations with the

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Grannis - Cross

1 engineering groups that were absolutely critical to our success  
2 because he understood where our gaps were in the product. So  
3 he could immediately gather teams not only in OCTO but outside  
4 of OCTO, and engineering teams listened immediately to what he  
5 had to say. He wielded enormous influence internally.

6 Q. How was his work in OCTO different than the work Ms. Rowe  
7 did?

8 A. Much more towards the kind of comprehensive engineering  
9 platform and much more of CTOs across really any industry.  
10 Ms. Rowe was mostly focused on financial services and, at the  
11 time, the financial services product area.

12 Q. Earlier you were asked some questions about a statement  
13 that you had made that Ms. Rowe had early on demonstrated  
14 L10-plus potential. Did she, and has she ever done anything  
15 that you are aware of to realize the potential you identified?

16 A. The lens matters. So from an engineering perspective, no.  
17 From a sales/marketing/public policy ability to shape, you  
18 know, like, financial services, I still think that she has  
19 demonstrated some significant impact in those areas in  
20 particular.

21 Q. Is OCTO a sales function?

22 A. It is not.

23 Q. Is Ms. Rowe expected to make engineering contributions in  
24 OCTO?

25 A. She is.

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Grannis - Cross

1 MR. GAGE: Your Honor, what time were you going to let  
2 the jury go?

3 THE COURT: I was hoping for 4:35.

4 MR. GAGE: OK. I don't expect that I'm going to  
5 finish, your Honor. Let me just keep going.

6 I'd like to go to P126, and I don't believe there's an  
7 objection to this, is there, counsel? It's plaintiff's  
8 exhibit, so there is no objection.

9 Can we go, Jean, to Q3 of 2017 on page 17932. If you  
10 could call out that box.

11 BY MR. GAGE:

12 Q. Now, you're asked in this to identify something that  
13 Ms. Rowe does well.

14 Right there, Jean. Yes.

15 Driving authentic thought leadership, that was her  
16 strength, right?

17 A. Yes.

18 Q. You were also in this document asked to identify things  
19 that Ms. Rowe could do to have more impact, correct?

20 A. Correct.

21 MR. GAGE: Jean, can you go down to the next one at  
22 the top there.

23 Q. So this is Q3 of 2017. Were you giving Ms. Rowe direction  
24 and indicating that she needed to make more engineering impact  
25 in OCTO?

NADHRow7

Grannis - Cross

1 A. Yeah. This was really the first nudge in that direction,  
2 because if you take the last feedback around success in the  
3 one-to-one and one-to-many and then the words that were added  
4 here which now includes project eng, I was just making sure  
5 that she kept that on her radar as a place she needed to create  
6 some more impact.

7 Q. What is one-to-one and one-to-many?

8 A. One-to-one is — was, like, our shorthand with meeting with  
9 customers. So she was very — she was already demonstrating  
10 really great acumen in opening the doors to customers that  
11 maybe wouldn't have considered us before. One-to-many is our  
12 shorthand for, like, events, marketing events, public forums,  
13 things like that.

14 MR. GAGE: Jean, if you could flip to the bottom of  
15 page 82730.

16 Q. We're now at Q3 of 2020.

17 No, at the bottom.

18 See at the bottom it says, "What's the one thing to do  
19 to have more impact?" And your name is at the bottom, you see  
20 that, Mr. Grannis?

21 If we flip to the next page and highlight the comment  
22 at the top.

23 Now, this is in 2020. What were you suggesting to  
24 Ms. Rowe that she needed to do?

25 A. The product strategy pillar, that refers to that product

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Grannis - Cross

1 and eng pillar of our work, needed to strengthen them.

2 Q. And why did she need to strengthen on that?

3 A. Because she wasn't creating as much impact as would be  
4 expected in the role.

5 Q. And are you talking about the expectations of a Level 8 or  
6 a Level 9?

7 A. A Level 8.

8 Q. Now, you rated Ms. Rowe as exceeds expectations. Are there  
9 two higher scores she could have achieved if she had done more?

10 A. Yes, on that rubric there were two higher scores. That  
11 sits in the middle. It's a 3 out of 5.

12 Q. What are the next two scores above that, if you recall?

13 A. At the time I think it was strongly exceeds expectations,  
14 and then there was one that was just — I don't remember the  
15 exact name for it, but it was basically transformational  
16 impact.

17 Q. Did Ms. Rowe ever achieve those higher ratings?

18 A. No.

19 MR. GAGE: Jean, could you go to the page 79128 and  
20 highlight at the bottom.

21 Q. Now we're talking Q3 of 2020 where it says at the bottom,  
22 "Why not higher? Why not lower?" Were you asked to explain  
23 why she did not get a higher or lower rating?

24 A. Yes.

25 Q. Why did she not get a higher rating on that?

NADHRow7

Grannis - Cross

1 A. Here it says "Sponsorship of complex CI." "CI" is  
2 shorthand or an acronym for collaborative innovation projects.  
3 These are our engineering projects that we do hand in hand with  
4 customers. So at this point, you know, no ongoing consistent  
5 strong sponsorship of a project like that. "No collaborative  
6 innovation stories," meaning a success story to date. And then  
7 "no progress or even updates on the themes," these emerging  
8 themes are kind of forward-looking engineering hypotheses that  
9 we create in the team and then test. At that point she had not  
10 really progressed or made many updates even on the ones that  
11 she owned.

12 Q. Has Ms. Rowe made any significant engineering contributions  
13 in OCTO?

14 A. No.

15 Q. In all of her time in OCTO, she's not made any significant  
16 engineering contributions?

17 A. I mean, not as defined by this pillar.

18 Q. OK.

19 A. You know, you could — you could say from a customer  
20 standpoint and from a one-to-many standpoint, she has  
21 definitely demonstrated thought leadership and taken very  
22 complex technical topics and made them approachable to both  
23 customers and broad audiences.

24 Q. But isn't an L8 technical director at OCTO expected to make  
25 engineering contributions?



NADHRow7

Grannis - Cross

1 A. Yes.

2 Q. If Ms. Rowe had made significant engineering contributions,  
3 could she have potentially received higher ratings as an L8?

4 MS. GREENE: Objection.

5 THE COURT: Overruled.

6 A. Absolutely.

7 Q. The L9s that we talked about, the L9 technical directors  
8 that you hired in 2016 and 2017, over time have each of them  
9 made engineering contributions in OCTO?

10 A. I'd have to look at, like — I'd have to look at each name  
11 and then think about the projects, but generally, I'd say yes.

12 Q. And when you rated the L9s — you were asked some questions  
13 about your ratings of L9s. If an L9 got a rating below exceeds  
14 expectations, does that mean they are not performing as well as  
15 Ms. Rowe?

16 A. No, that's a rubric — that's how they're performing to  
17 their level.

18 Q. What do you mean that's how they're performing to their  
19 level?

20 A. Because the ratings take into account the level that you're  
21 at. So we talked about this earlier where you would have  
22 expectations for an L9 that are different from an L8.

23 Q. Now, Ms. Rowe testified that she's still focusing her  
24 attention on financial services. Is she supposed to be  
25 focusing all her attention on financial services?

NADHRow7

Grannis - Cross

1 A. No.

2 Q. Now, she testified that she was layered in 2022 and passed  
3 over for a manager role and that Ms. Florissi sits between her  
4 and you. Was Ms. Rowe fairly considered for that role?

5 A. Yes.

6 Q. And why did you give that role to Ms. Florissi instead of  
7 Ms. Rowe?

8 A. Because the panel determined that Ms. Florissi would make  
9 the better manager.

10 Q. When Ms. Florissi was given that manager responsibility,  
11 was she promoted as a result of the decision?

12 A. No.

13 Q. Did she get any extra work?

14 A. She got a lot of extra work.

15 Q. But she wasn't promoted?

16 A. No.

17 Q. Ms. Rowe testified about her work on a Goldman Sachs deal.  
18 Has she been involved in a deal with Goldman Sachs?

19 A. In the early days she was actually one of the keys to the  
20 relationship. We didn't have a relationship there, so she  
21 definitely helped open up the relationship.

22 Q. Did that change over time, that is, her involvement in the  
23 project?

24 A. Yes, for sure. So roughly 2018-ish people from our team  
25 like Solomon, Matt, even Brian Stevens, were all seen as more,

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Grannis - Cross

1 like, consistent interfaces. We had this thing in Google at  
2 the time in Google Cloud, we had a thing called a ramp wire.  
3 So there's a win wire. So think about the sequence of a  
4 relationship with a business. You can win the business, but  
5 then in cloud you have to keep earning their business so  
6 they'll spend on cloud. It's a consumption-based business.

7 So what that means is and where I'm going is we'd have  
8 these things called ramp wires, and the ramp wire was the sales  
9 team celebrating the efforts of people that were really crucial  
10 to a specific deal. And in 2018 the ramp wire, for example,  
11 included three people from our team and not Ms. Rowe. Even  
12 today, as an active customer of ours, we're doing very, very  
13 complex failover, kind of multi-region database work, and other  
14 people from the team are leading that work hand in hand with  
15 the customer.

16 Q. Is that because Ms. Rowe's been pushed out of the work?

17 A. Absolutely not.

18 Q. OK. Just a couple more questions.

19 Ms. Rowe testified about a conversation that she says  
20 that she had with you after she returned to OCTO from  
21 Mr. Shaukat's organization, and she said that — she testified  
22 that you approached her because the lawyers for Google told you  
23 about her concerns and suggested that you agree to support her.

24 Do you have a recollection of any conversation like  
25 that?

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Grannis - Cross

1 A. We definitely had a conversation like that, and —

2 Q. What do you recall about that conversation?

3 A. What I recall is (1) I was made aware that Ulku had voiced  
4 some concerns. I don't know what those concerns were. That  
5 was part of the confidential process. And the first thought I  
6 had was she's probably going to be pretty — she's obviously  
7 upset if she's got concerns, and so she would probably also be  
8 worried about, like, her place. So I sought her out, and I  
9 told her that OCTO was going to continue to be a safe place for  
10 her no matter what.

11 Q. Did you and do you respect her right to bring this lawsuit?

12 A. Absolutely.

13 Q. Have you allowed her leveling concerns or this lawsuit to  
14 affect any of the decisions you've made about her?

15 A. Absolutely not.

16 Q. Do you want to see Ms. Rowe succeed at Google?

17 A. Absolutely.

18 Q. Mr. Grannis, when you hire people into OCTO, do you tell  
19 them two things they need to do to succeed?

20 A. I do.

21 Q. What do you tell them they need to do to succeed?

22 A. Build your network inside of Google, learn the platform.

23 Q. If Ms. Rowe focused on those two things that you've told  
24 every OCTO hire they need to do to succeed, do you think that  
25 she would be doing even better at Google than she has?

NADHRow7

Grannis - Cross

1 MS. GREENE: Objection.

2 THE COURT: Sustained.

3 Q. Mr. Grannis, in your opinion, having managed Ms. Rowe for a  
4 number of years, has she focused on those two things?

5 A. No.

6 MR. GAGE: No further questions, your Honor.

7 THE COURT: All right. Members of the jury, I wanted  
8 to just cover two things with you before I release you. One is  
9 that you might recall that the first day you were here, which  
10 was Tuesday, the 10th, I told you that the trial would likely  
11 conclude on or about Wednesday, October 18. We now think it is  
12 more likely than not that the trial will not conclude until  
13 Thursday, the 19th, and I wanted to let you know that now to  
14 hopefully help you plan.

15 In addition, we're not going to see each other now for  
16 several days. I do want to emphasize that you must not discuss  
17 this case with one another or anyone else. Do not communicate  
18 about the case in person, by email, by Twitter, by Facebook, by  
19 any means. Keep an open mind until you have heard all of the  
20 evidence in the case.

21 And with that, I wish you a good weekend.

22 (Jury excused)

23 (Continued on next page)

NADHRow7

1 (Jury not present)

2 THE COURT: All right. Mr. Grannis, you may step  
3 down.

4 (Witness temporarily excused)

5 THE COURT: You may all be seated. I just want to go  
6 over a couple of things.

7 First of all, when Ms. Williams returns, I want to ask  
8 her to give you a report on time.

9 Second, I believe at a sidebar today Ms. Greene and  
10 Ms. Tomezsko were talking about a stipulation relating to  
11 exhibits. Is that correct?

12 MS. TOMEZSKO: Yes, your Honor.

13 THE COURT: And what exactly was that again?

14 MS. TOMEZSKO: In addition to the stipulation that we  
15 handed up at the beginning, we have agreed that all of the  
16 exhibits that have been published to the jury are deemed  
17 admitted.

18 THE COURT: So you'll give that to me on Wednesday?

19 MS. TOMEZSKO: Oh, absolutely, your Honor.

20 THE COURT: One other request, which is that — I told  
21 you at the beginning of the last break that I'm directing you  
22 to meet and confer and try to narrow the list of documents  
23 and/or deposition designations as to which there are pending  
24 objections. I also want you to file a joint letter by 5 p.m.  
25 on Tuesday updating the Court on the outcome of that

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1 meet-and-confer and identifying any objections that have been  
2 resolved.

3 Do you want to wait for Ms. Williams to return so you  
4 can get a report on time?

5 MR. GAGE: I would like that.

6 THE COURT: OK. I figured.

7 MR. GAGE: And I have a question, your Honor.

8 THE COURT: Yes.

9 MR. GAGE: I have two questions, actually. One,  
10 unless counsel tells us something surprising, that they don't  
11 have any redirect for Mr. Grannis, I would ask that he be able  
12 to do that remotely like the plaintiff's witness will be doing  
13 because he's traveling back to —

14 THE COURT: Where does he live?

15 MR. GAGE: He lives in Texas.

16 MS. TOMEZSKO: Austin, Texas.

17 MR. GAGE: He lives in Texas now, so he's traveling  
18 back to Texas. So I presume that we can do the same thing with  
19 him. I can't imagine that counsel has a ton of redirect, and  
20 for him to fly across the country for a few minutes of  
21 redirect, I'd just ask that we can do it that way.

22 THE COURT: Looking at Ms. Greene, I'm not sure that  
23 she agrees.

24 MS. GREENE: Your Honor, I don't agree. I have quite  
25 a bit of redirect given the extensive nature of Mr. Gage's

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1 questioning. And for a witness who has been in person, for me  
2 to not have that opportunity and for the jury to have the  
3 opportunity to see that redirect in person would be highly  
4 prejudicial. I think any witness should either be one or the  
5 other, and it shouldn't be divided for the jury.

6 MR. GAGE: Seems to me, your Honor, if their witness  
7 can testify remotely —

8 THE COURT: Yes, but their witness is going to testify  
9 fully remotely. I agree with Ms. Greene, and Mr. Grannis will  
10 have to come back.

11 MR. GAGE: The next question, your Honor, is you ruled  
12 once that Ms. Florissi can testify, but then the plaintiff  
13 raised the issue again. And we originally — we just need to  
14 schedule it.

15 THE COURT: I understand. We will get that. When  
16 would she come if she's going to come?

17 MR. GAGE: Currently, we're planning on — we were  
18 hoping to finish on the 18th —

19 THE COURT: Yes.

20 MR. GAGE: — with their case and our case, and so  
21 we'd have to fit her in then.

22 THE COURT: I'm mindful that you need an order on that  
23 application, and we will get it to you by Monday, for sure.

24 MR. GAGE: OK.

25 MS. GREENE: Your Honor, I have one thing, and that is



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1 with respect to Mr. Vardaman.

2 THE COURT: Yes.

3 MS. GREENE: Despite what I think was a very  
4 streamlined questioning of him, his testimony did go over by 48  
5 minutes what his deposition testimony would have been, just for  
6 plaintiff's designations. I'm not speaking for defendant's  
7 designations at all. And your Honor had indicated that if it  
8 did go over and was longer than the deposition testimony, that  
9 we could request an extension of our overall time by that  
10 overage. So I would request that plaintiff's time would be  
11 extended by 48 minutes — I'm sorry, 46 minutes exactly.

12 MR. GAGE: And defendant's —

13 THE COURT: Just one second.

14 Ms. Williams, would you mind tallying up time while we  
15 talk so you can give counsel a report.

16 THE DEPUTY CLERK: I've got it for you, Judge.

17 THE COURT: Just a moment.

18 All right. Mr. Gage, go ahead.

19 MR. GAGE: I'm just asking if what's good for the  
20 goose is good for the gander, that's all I was asking. If they  
21 get an additional 48 minutes because he was here live, then we  
22 should get an additional 48 minutes because he was here live,  
23 and he was live here for both of us.

24 THE COURT: Where did he come from, by the way?

25 MR. GAGE: Texas. He came four days ago, and we just

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1 kept pushing him, but yes.

2 THE COURT: I will think about it and get back to you.  
3 I will say that, based on what I've seen so far in three days  
4 of trial plus a little bit in terms of presentation of  
5 evidence, I am surprised that you're asking me for additional  
6 time. I have already heard some of the same things over and  
7 over. I don't think the jury really wants to sit through that  
8 much more. But I am going to think about it and get back to  
9 you.

10 All right. Go ahead, Ms. Williams.

11 THE DEPUTY CLERK: Total use of time today for  
12 plaintiff's counsel was 146 minutes, which is a total of 537  
13 minutes used so far, with a balance of 183 minutes.

14 Defense counsel used 123 minutes, which is a total of  
15 347 minutes so far and have a balance of 873 minutes.

16 THE COURT: All right. Well, I will see you after the  
17 break. I hope you all do actually get something of a break.

18 MS. GREENE: Your Honor, I'm sorry.

19 THE COURT: Yes.

20 MS. GREENE: Just one thing. Will the courtroom be  
21 available on Tuesday to prepare the technology for any remote  
22 witness on Wednesday?

23 THE COURT: Any remote witness? Are we actually doing  
24 that or —

25 MS. GREENE: Yeah, I thought that was the agreement.

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1 THE COURT: I thought so, too, but you said "any," so  
2 I want to make sure we're not —

3 MR. GAGE: I thought we changed your mind, Judge. I  
4 was hoping.

5 MS. GREENE: For the remote witness on Wednesday, just  
6 to make sure the technology is set up.

7 THE COURT: That's fine with me.

8 Ms. Williams?

9 THE DEPUTY CLERK: I will be here and I will make the  
10 arrangements with William again.

11 MS. GREENE: Thank you.

12 THE DEPUTY CLERK: I'll open up the courtroom, and you  
13 can come in.

14 MS. GUTIERREZ: Is there a particular time you would  
15 like?

16 THE DEPUTY CLERK: No, the courtroom is available all  
17 day. Your stuff will be here. I'm going to be here all day.  
18 Just call me or email me when you're in the building. I'll  
19 come up and open the courtroom.

20 (Discussion off the record)

21 MS. TOMEZSKO: Just standing.

22 MR. GAGE: Waiting for you stand up, Judge.

23 THE DEPUTY CLERK: All rise.

24 (Adjourned to October 18, 2023, at 9:00 a.m.)  
25

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